

— Romania —

Ratifications

Romania ratified the revised European Social Charter on 07/05/1999 and has accepted 65 of the Revised Charter's 98 paragraphs.

Romania has not agreed to be bound by the "collective complaints" procedure.

On 18-19/05/2004, the European Committee of Social Rights (ECSR) participated in a meeting with the representatives of the Romanian Government on provisions of the Revised Charter not accepted by Romania.

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3										
								Grey = Accepted provisions			

Reports

Between 2001 and 2006, Romania submitted 6 reports on the application of the Revised Charter. Trades Unions and organisations of employers have not submitted comments on the reports. The 7th report will concern the provisions related to the theme 'Employment, Training and Equal opportunities' (Articles 1, 9, 10, 15, 18, 20, 24 and 25 of the Revised Charter). It was due by 31/10/2007.

The Charter in domestic law

Automatic standing incorporation based on the Constitution, Article 11: "1. The Romanian State pledges to fulfil as such and in good faith its obligations as deriving from the treaties it is a party to. 2. Treaties ratified by Parliament, according to the law, are part of national law 3. If a treaty Romania is to become a party to comprises provisions contrary to the Constitution, its ratification shall only take place after the revision of the Constitution".

The situation of Romania with respect to application of the Charter is the following as of 1st December 2007:

Examples of progress achieved following conclusions or decisions of the ECSR¹

Health

- ▶ Listing of occupations or activities where the length of work is to be decreased for health risk reasons (Labour Code as revised in 2003).
- ▶ Restrictions on tobacco advertising and sale (Act No. 148/2000); Measures preventing and combating the effects of the tobacco products (Act No. 90/2004).

Children

- ▶ Adoption of a comprehensive framework on the protection and promotion of the rights of the child and setting up of the National Authority for the Protection of the Rights of the Child (Act No. 272/2004 on the Protection of the Rights of the Child).
- ▶ National action plan to eliminate child labour approved in Government decision No. 1769/2004.
- ▶ Prohibition of trafficking of children for any kind of exploitation, including sexual (Act No. 678/2001 on the Prevention and Combat of Trafficking in Human Beings).

Non-discrimination

- ▶ Prohibition of all forms of discrimination in employment (Ordinance No. 137/2000 as modified by Act No. 48/2002)
- ▶ Prohibition of all forms of discrimination on grounds of sex in access to social security benefits (Act No. 76/2002)
- ▶ Prohibition of all forms of discrimination on grounds of sex in all aspects of working life and right to equal pay for a work of equal value (Act No. 202/2002)
- ▶ Prohibition of discrimination in employment on the grounds of disability (Decree No. 77/2003 and Labour Code as revised)

Equal opportunities

¹ “1. The European Committee of Social Rights (ECSR) makes a legal assessment of the conformity of national situations with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions in the framework of the reporting procedure and decisions under the collective complaints procedure “. (Article 2 of the Rules of the ECSR)

- ▶ Exemption of all persons with disabilities working on individual employment contracts from tax on their wages (Governmental Emergency Ordinance No. 102/1999 approved by Act No. 519/2002)

Right of children and young persons to protection

- ▶ Adoption of measures to prevent and protect children and young persons against domestic violence (Act No. 217/2003).

Employment

- ▶ Regulation of special types of contracts of employment (temporary agency work, part-time employment, employment on fixed term contracts, home-based work) (Labour Code as revised in 2003).
- ▶ Right of employees to set up and join trade unions, without any restriction, including of nationality, or preliminary authorisation (Act No. 54/1991 on trade unions as revised in 2003).
- ▶ Right of civil servants to organise in principle (Act No. 344/2004 on the status of civil servants)
- ▶ Right of female employees to a compulsory 42 days postnatal leave (Article 16 of Government Emergency Ordinance No 96/2003).

Cases of non-compliance

Health

- ▶ *Article 3§2 – Right to health and safety in the workplace*

Self-employed workers and domestic staff are not covered by the occupational health and safety regulations. Prevention and protection measures do not also cover all the risks linked to this provision.

- ▶ *Article 11§1 – Removal of the causes of ill-health*

The Committee considers that infant and maternal mortality rates are too high (in 2002, respectively, 17.3 deaths for 1,000 live births and 22 deaths for 100,000 live births). The situation in certain psychiatric hospitals is also alarming (lack of resources, report of ill treatment in particular).

Children

- ▶ *Article 7§§1 to 9 – Prohibition of employment of children aged under 15 and of children subject to compulsory education – right of young persons aged between 15 and 18 to specific employment conditions*

The labour legislation regarding young workers is not effective. Young people employed as domestic staff are also not covered by labour legislation.

- ▶ *Article 7§3 – Prohibition of employment of children subject to compulsory school*

Definition of light work for children aged more than 15 still subject to compulsory education does not adequately reflect the notion of light work used under Article 7. In addition, children aged more than 15 still subject to compulsory education are not guaranteed the benefit of a sufficiently long rest period during holidays (the period of rest must cover at least half the holiday period for them).

► *Article 7§10 – Right of children and young persons to protection against moral and physical dangers*

Although significant measures have been taken to address the problem of trafficking of minors, the number of children affected is too high, indicating that the measures adopted have not yet been fully effective.

► *Article 15§1 – Right of persons with disabilities to education*

Separate schooling of the majority of children with disabilities in special schools.

► *Article 17§1 – Right of young persons (legal and social protection)*

Corporal punishment within the family is not prohibited. The Committee also considers that the level of non-attendance of compulsory schooling is manifestly too high (with regard to high school of which two years is compulsory almost 44% of urban children and 70% of rural children were not enrolled in 2002-2003).

Non-discrimination (Nationality)

► *Article 5 – Right to organise*

The Romanian nationality is required for representatives of management and labour on the Economic and Social Council.

► *Article 12§4 – Equal treatment in social security matters*

The legislation does not provide for retention of accrued benefits when persons move to a state party not bound by agreement with Romania. In addition, the legislation does not provide for the accumulation of insurance or employment periods completed by the nationals of states party not bound by agreement with Romania.

Non-discrimination (Disability)

► *Article 15§§1 and 2 – Right of persons with disabilities to education and employment*

Legislation does not prohibit discrimination in relation to disability in the field of education and training.

Non-discrimination (Minority)

► *Article 16 – Legal social and economic protection of the family*

Roma families are subject to shortage of housing (inadequacy of the supply of housing appropriate to the size and needs of Roma families).

Social Protection

▶ *Article 16 – Legal social and economic protection of the family*

According to Eurostat, child allowances (in the amount of 6.39€ monthly) only represented approximately 2.21 % of the value of the median equivalised income (which was about 288.4€ the same year) in 2003. The Committee considered that the level of family benefits was manifestly inadequate.

Employment

▶ *Article 1§1 – Full employment policy*

Any information on the public expenditure on active and passive employment measures as a percentage of GDP or on the number of participants in the various active measures is not provided in the framework of the policy measures to address the high long-term unemployment rate as well as the rising youth unemployment rate.

▶ *Article 1§2 – Prohibition of forced labour*

The Committee considered that the length of alternative service to military service (24 months) is excessive. It took the view that the additional 12 months (the normal period is 12 months), during which the persons concerned were deprived of the right to earn a living through freely undertaken work, went beyond reasonable limits in relation to the length of military service.

▶ *Article 4§1 – Right to adequate remuneration*

In 2004, the minimum wage only represented 34.40% of the average annual gross earning (2140€ in 2003). According to Eurostat, 12 % of employees earned minimum wage both in 2003 and 2004. The Committee considered that the level of the minimum wage was manifestly inadequate.

▶ *Article 4§4 – Right to reasonable notice of termination of employment*

The Labour Code only provides for a 15-day period of notice regardless of the length of service.

▶ *Article 4§5 – Limitation of deduction from wages*

Deductions from wages may deprive the worker of his very means of subsistence.

▶ *Article 5 – Right to organise*

The restrictions on the right to organise of senior civil servants and officials holding management positions or high public office are too general. Certain categories of persons, for example, such as persons holding management positions or high public office, are not entitled to form trade unions. The

membership of the police officers to the National Police Association is compulsory.

▶ *Article 6§4 – Right to collective action (strike and lock-out)*

A trade union may take collective action only if it fulfils representativity criteria and if more than 50% of its members agree to do so, which unduly restricts the right of trade unions to take collective action.

▶ *Article 29 – Right to information and consultation in collective redundancy procedures*

The content of the information supplied to workers' representatives is limited to the reasons for the redundancies and the number of employees concerned. In addition, no penalties are provided for failure to observe the consultation procedures.

The ECSR is unable to assess whether Romania complies with the following provisions:

▶ *Article 4§1 – Right to adequate remuneration*