


— Moldova and the European Social Charter —

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Update: December 2010

Ratifications

Moldova ratified the Revised European Social Charter on 08/11/2001 and has accepted 63 of the revised Charter's 98 paragraphs.

Moldova has not accepted the Additional Protocol of 1995 providing for a system of collective complaints.

Table of accepted provisions

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

The Charter in domestic law

Article 4 of the Constitution: "1. Constitutional provisions concerning human rights and freedoms shall be understood and implemented in accordance with the Universal Declaration of Human Rights, and with other conventions and treaties to which the Republic of Moldova is party. 2. Wherever disagreements appear between conventions and treaties signed by the Republic of Moldova and her own national laws, priority shall be given to international regulations."

Reports *

Between 2004 and 2010, Moldova presented 7 reports on the application of the Revised Charter.

The [6th report](#), submitted on 16/11/2009, concerns the provisions accepted by Moldova relating to Thematic Group 3 "Labour rights" (articles 2, 4§§3, 4, 5, 5, 6, 21, 26, 28 and 29 of the Revised Charter). Conclusions in respect of these provisions were published in December 2010.

The [7th report](#) submitted on 16/12/2010 concerns the provisions accepted by Moldova relating to Thematic Group 4 "Children, families, migrants" ie

- the right of children and young persons to protection (Article 7§§1, 2, 3, 4, 7, 8, 9, 10),
- the right of employed women to protection (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19§§7, 8),
- the right of workers with family responsibilities to equal opportunity and treatment (Article 27§2),

* [Following a decision taken by the Committee of Ministers in 2006](#), under the current report system, the provisions of both the 1961 Charter and the Revised Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

The situation of Moldova with respect to the application of the Revised Charter

Examples of progress achieved in the implementation of social rights under the Social Charter¹

General

- ▶ Adoption of the national action plan on human rights (2004-2008).
- ▶ Adoption of a national action plan for 2006 – 2009 was designed to strengthen the protection against harassment at work.

Health

- ▶ Adoption, as part of the United Nations Millennium Development Goals, of a strategy for economic growth and poverty reduction (2004-2006), two of whose main indicators are reductions in the infant and maternal mortality rates by 2006.
- ▶ Adoption of the Occupational Health and Safety Act adopted by the Moldovan Parliament on 10 July 2008 and which has entered into force on 1 January 2009.
- ▶ By Decision No. 886 of 6 August 2007, the Government of Moldova approved a national health policy who sets out the priorities for the next fifteen years.

Children/education

- ▶ Adoption of an “education for all” strategy in 2003, with the aim of increasing enrolment rates in pre-school establishments to 75% and in primary schools to 100% by 2007, and of reducing disparities between rural and urban areas and between disadvantaged sectors of the population and those on average incomes.

Non-discrimination (sex)

- ▶ Adoption in 2003 of a national plan to promote equality of the sexes in society.

Cases of non-conformity

Thematic Group 1 “Employment, training and equal opportunities”

- ▶ *Article 1§2 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

The excessive length of alternative military service breaches the right to earn one’s living in an occupation freely entered upon.

[\(Conclusions 2008\)](#)

- ▶ *Article 1§4 – Right to work - Vocational guidance, training and rehabilitation*

There is no evidence as to how equal treatment is guaranteed to all nationals of States Parties as well as no legislation explicitly protecting persons with disabilities from discrimination in education and training.

[\(Conclusions 2008\)](#)

¹ The Committee rules on the conformity of national situations with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. It adopts conclusions in the framework of the reporting procedure and decisions under the collective complaints procedure (Article 2 of the Rules of the Committee).

► *Article 9 – Right to vocational guidance*

Absence of provisions which guarantee equal treatment to all nationals of States Parties.

([Conclusions 2008](#))

► *Article 15§1 – Right of persons with disabilities to independence, social integration and participation in the life of the community – Vocational training for persons with disabilities*

There is no legislation explicitly protecting persons with disabilities from discrimination in education and training.

([Conclusions 2008](#))

► *Article 15§2 – Right of persons with disabilities to independence, social integration and participation in the life of the community – Employment of persons with disabilities*

Legislation prohibiting discrimination in employment on the ground of disability is inadequate.

([Conclusions 2008](#))

Thematic Group 2 “Health, social security and social protection”

► *Article 3§2 – Right to safe and healthy working conditions – Safety and health regulations*

There is no specific legislation on the main occupational risks and no proof that temporary workers and self-employed workers are adequately protected by occupational health and safety regulations.

([Conclusions 2009](#))

► *Article 3§3 – Right to safe and healthy working conditions – Enforcement of safety and health regulations*

Absence of an efficient reporting system of occupational accidents and of an efficient labour inspection system.

([Conclusions 2009](#))

► *Article 11§1 – Right to protection of health – Removal of the causes of ill-health*

The infant and maternal mortality rates are manifestly too high.

([Conclusions 2009](#))

► *Article 11§2 – Right to protection of health – Advisory and educational facilities*

There is no screening available for diseases responsible for high levels of mortality as well as free medical supervision provided throughout the period of schooling.

([Conclusions 2009](#))

► *Article 11§3 – Right to protection of health – Prevention of diseases and accidents*

Lack of adequate measures in force preventing accidents or protecting the population from the risks of ionising radiation and asbestos.

([Conclusions 2009](#))

► *Article 12§1 – Right to social security – Existence of social security system*

There is no evidence that the adequacy of social security benefits is secured and that unemployment benefits are paid for a reasonable duration.

([Conclusions 2009](#))

► *Article 12§2 – Right to social security – Maintenance of a social security system at a satisfactory level at least equal to that required for the ratification of the European Code of Social Security*

The social security system does not meet the requirements of the European Code of Social Security.

([Conclusions 2009](#))

► *Article 12§3 – Right to social security – Development of the social security system*

Unsatisfactory steps have been taken to raise progressively the system of social security to a higher level.

([Conclusions 2009](#))

► *Article 12§4 – Right to social security – Social security of persons moving between states*
With the exception of Azerbaijan, equal treatment of nationals of other States Parties is not guaranteed.
([Conclusions 2009](#))

► *Article 13§1 – Right to social and medical assistance – Adequate assistance for every person in need*
The right to social and medical assistance is not guaranteed.
([Conclusions 2009](#))

► *Article 13§2 – Right to social and medical assistance - Non-discrimination in the exercise of social and political rights*
There is no evidence that persons receiving social and medical assistance do not, for that reason, suffer from a diminution of their political or social rights.
([Conclusions 2009](#))

► *Article 13§3 – Right to social and medical assistance – Prevention, abolition or alleviation of need*
Social services do not operate in the meaning of this provision, namely there is no proof that social services offer advice and personal assistance to persons without adequate resources or at risk of becoming so.
([Conclusions 2009](#))

Thematic Group 3 “Labour rights”

► *article 2§1 - Right to just conditions of work - Reasonable working time*
The Labour Code permits companies, as a general rule, to set reference periods up to 12 months for the calculation of average working hours.
([Conclusions 2010](#))

► *article 2§2 - Right to just conditions of work - Public holidays with pay*
It has not been established that the right to public holidays with pay is guaranteed.
([Conclusions 2010](#))

► *article 2§3 - Right to just conditions of work - Annual holiday with pay*
It has not been established that the right to annual holiday with pay is guaranteed.
([Conclusions 2010](#))

► *article 2§4 - Right to just conditions of work - Elimination of risks in dangerous or unhealthy occupations*
No steps have been taken to eliminate or reduce the risks associated with dangerous or unhealthy work.
([Conclusions 2010](#))

► *article 2§5 - Right to just conditions of work - Weekly rest period*
It has not been established that the right to weekly rest period is guaranteed.
([Conclusions 2010](#))

► *article 2§6 - Right to just conditions of work - Information on the employment contract*
It has not been established that the right to information of the employment contract is guaranteed.
([Conclusions 2010](#))

► *article 2§7 - Right to just conditions of work - Night work*
It has not been established that the right to just conditions of night work is guaranteed.
([Conclusions 2010](#))

► *article 4§4 - Right to a fair remuneration - Reasonable notice of termination of employment*
One month notice is not sufficient for workers with at least five years' service;
Two months' notice is not sufficient for workers with more than fifteen years' service.

[\(Conclusions 2010\)](#)

► *article 4§5 - Right to a fair remuneration - Limits to deduction from wages*

It has not been established that deductions from wages will not deprive workers and their dependents of their very means of subsistence.

[\(Conclusions 2010\)](#)

► *article 5 - Right to organise*

1. Trade unions not operating nationwide are required to belong to a national, sectoral or inter-sectoral trade union in order to acquire legal personality which unduly restricts the right to form trade unions;
2. It has not been established that compensation and penalties are provided for by law in case of discrimination based on trade union membership.

[\(Conclusions 2010\)](#)

► *article 6§1 - Right to bargain collectively - Joint consultation*

It has not been established that joint consultation covers all matters of mutual interest.

[\(Conclusions 2010\)](#)

► *article 6§2 - Right to bargain collectively - Negotiation procedures*

1. It has not been established that there is an appropriate legislative framework;
2. It has not been established that civil servants are entitled to participate in the processes that result in the determination of the regulations applicable to them.

[\(Conclusions 2010\)](#)

► *article 6§3 - Right to bargain collectively - Conciliation and arbitration*

Recourse to compulsory arbitration is permitted in circumstances which go beyond the limits set out in Article G of the Revised Charter.

[\(Conclusions 2010\)](#)

► *article 6§4 - Right to bargain collectively - Collective action*

1. The restrictions to the right to strike for public officials and employees in sectors such as the public administration ("internal affairs") state security sectors and national defence go beyond those permitted by Article G of the Revised Charter;
2. The right to strike is denied to all employees in electricity and water supply services, telecommunication and air traffic control.

[\(Conclusions 2010\)](#)

► *article 21 - Right of workers to be informed and consulted*

It has not been established that sanctions are applicable in case employers fail to fulfil their obligation to inform and consult workers within the undertaking.

[\(Conclusions 2010\)](#)

► *article 26§1 - Right to dignity in the workplace - Sexual harassment*

It has not been established that Moldova guarantees the right to protection from sexual harassment in the workplace.

[\(Conclusions 2010\)](#)

► *article 26§2 - Right to dignity in the workplace - Moral harassment*

It has not been established that Moldova guarantees the right to protection from moral harassment in the workplace.

[\(Conclusions 2010\)](#)

► *article 28 - Right of workers' representatives to protection in the undertaking and facilities to be accorded to them*

1. Employees' representatives, other than trade union representatives are guaranteed protection against dismissal or prejudicial acts short of dismissal where they are exercising their functions outside the scope of collective bargaining;

2. Facilities identical to those afforded to trade union representatives are provided to other employees' representatives.

([Conclusions 2010](#))

► *article 29 - Right to information and consultation in procedures of collective redundancy*

It has not been established that Moldova guarantees the right to information and consultation in collective redundancy procedures.

([Conclusions 2010](#))

Thematic Group 4 "Children, families, migrants"

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

The number of children trafficked is too high and the measures adopted are insufficient.

([Conclusions 2006](#))

► *Article 17§1 – Right of mothers and children, to social, legal and economic protection – Assistance, education and training*

1. Corporal punishment of children is not prohibited;

2. The enrolment rate for primary school is manifestly too low and the dropout rate from schools is manifestly too high.

([Conclusions 2005](#))

The European Committee of Social Rights has been unable to assess compliance with the following provisions and has invited the Moldovan Government to provide more information in the next report:

Thematic Group 1 "Employment, training and equal opportunities"

(Report to be submitted before 31 October 2011)

► *Article 1§1 and §3 - Conclusions 2008*

► *Article 18§4 - Conclusions 2008*

► *Article 20 - Conclusions 2008*

► *Article 24§1 - Conclusions 2008*

Thematic Group 2 "Health, social security and social protection"

(Report to be submitted before 31 October 2012)

► *Article 3§1 - Conclusions 2009*

Thematic Group 3 "Labour rights"

(Report to be submitted before 31 October 2013)

Thematic Group 4 "Children, families, migrants"

(Report to be submitted by 31 October 2010, Conclusions to be published by the end of 2011)

- ▶ *Article 7§§1, 2, 3, 4, 7, 8, 9* - Conclusions 2006
- ▶ *Article 16* - Conclusions 2006
- ▶ *Article 17* - Conclusions 2005
- ▶ *Article 19§7 and §8* - Conclusions 2006