

## – Georgia and the European Social Charter –

### Signatures, ratifications and accepted provisions

Georgia ratified the Revised European Social Charter 22/08/2005, accepting 63 of the Revised Charter's 98 paragraphs.

Georgia has not yet ratified the Additional Protocol 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				

### Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted [reports concerning Georgia](#) in 2012 and in 2015. The Committee considers that there are no legal obstacles to acceptance by Georgia of the following provisions: Article 2§3, Article 3§§1, 2 and 4, Article 4§5, Article 8§§1 and 2, Article 9, Article 10§§1 and 3, Article 15§1, Article 17§2, Article 21, and Article 22.

Further information on the reports on non-accepted provisions is available on the [relevant webpage](#).

# Monitoring the implementation of the European Social Charter <sup>1</sup>

## I. Reporting system <sup>2</sup>

### Reports submitted by Georgia

Between 2007 and 2019, Georgia has submitted 12 reports on the application of the Revised Charter.

The [11<sup>th</sup> report](#), submitted on 03/11/2017 covers the accepted provisions of the Revised Social Charter relating to thematic group 3 "Labour rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28, 29).

Conclusions with respect to these provisions have been published in March 2019.

The [12<sup>th</sup> report](#), which was submitted on 31/10/2018, concerns the accepted provisions relating to Thematic group 4 "Children, families, migrants", namely:

- the right of children and young persons to protection (Article 7),
- 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),
- the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27),
- the right to housing (Article 31).

Conclusions with respect to these provisions will be published in January 2020.

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<sup>1</sup> The Committee monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure ».

Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

<sup>2</sup> Following a [decision taken by the Committee of Ministers in 2006](#), the provisions of the 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.

Following a [decision taken by the Committee of Ministers in April 2014](#), States having accepted the collective complaints procedure are required, in alternation with the abovementioned report, to provide a simplified report on the measures taken to implement the decisions of the Committee adopted in collective complaints concerning their country. The alternation of reports is rotated periodically to ensure coverage of the four thematic groups.

Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

## Situations of non-conformity <sup>3</sup>

### Thematic Group 1 « Employment, training and equal opportunities » - Conclusions 2016

► *Article 151– Right to work – Policy of full employment*

Employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

► *Article 152– Right to work– Freely undertaken work (non–discrimination, prohibition of forced labour, other aspects)*

It has not been established that:

- there is adequate protection against all forms of discrimination in employment;
- the prohibition of forced labour is properly guaranteed;
- the right of workers to earn their living in an occupation freely entered upon are properly guaranteed.

► *Article 153 - Right to work - Free placement services*

The public employment services do not operate in an efficient manner.

► *Article 154 – Right to work – Vocational guidance, training and rehabilitation*

- It has not been established that the right to vocational guidance is guaranteed;
- Continuing vocational training for workers is not guaranteed;
- It has not been established that specialised guidance and training for persons with disabilities is guaranteed.

► *Article 1052 - Right to vocational training – Apprenticeship*

It has not been established that there is a well-functioning system of apprenticeships.

► *Article 1054 – Right to vocational training – Long term unemployed persons*

Special measures for the retraining and reintegration of the long-term unemployed have not been effectively provided or promoted.

► *Article 20 –Right to equal opportunities and equal treatment in employment and occupation without sex discrimination*

There is no explicit statutory guarantee of equal pay for work of equal value.

### Thematic Group 2 « Health, social security and social protection » - Conclusions 2017

► *Article 1151 – Right to protection of health – Removal of the causes of ill–health*

The measures taken to reduce infant and maternal mortality have been insufficient.

► *Article 1152 – Right to protection of health – Advisory and educational facilities*

Measures for counselling and screening of pregnant women and children are not adequate.

► *Article 1153 – Right to protection of health – Prevention of diseases and accidents*

The measures have taken to ensure access to safe drinking water in rural areas have been insufficient.

► *Article 1251 – Right to social security – Existence of a social security system*

- The number of risks covered by the system of social security is inadequate, as there is no provision for family benefits, unemployment benefits or work injuries/occupational diseases benefits;
- It has not been established that the level of minimum sickness benefits is adequate.

### Thematic Group 3 « Labour rights » - Conclusions 2018

► *Article 251 – Right to just conditions of work – Reasonable working time*

There is no appropriate authority that supervises that daily and weekly working time limits are respected in practice.

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<sup>3</sup> Further information on the situations of non-conformity is available on the [HUDOC database](#).

► *Article 252 – Right to just conditions of work – Public holidays with pay*

It has not been established that Georgian law ensures that work performed during public holidays is adequately compensated.

► *Article 255 – Right to just conditions of work – Weekly rest period*

It has not been established that the right to a weekly rest period is guaranteed.

► *Article 257 – Right to just conditions of work – Night work*

It has not been established that night workers are effectively subject to compulsory regular medical examination.

► *Article 453 – Right to a fair remuneration – Non-discrimination between women and men with respect to remuneration*

The statutory guarantee of equal pay only exists in public service.

► *Article 454 – Right to a fair remuneration – Reasonable notice of termination of employment*

- The notice period and severance pay provided for by the Labour Code is not reasonable for employees with more than 10 years of service;
- No notice period is provided where the termination of the employment contract is due to the death of the employer and initiation of liquidation proceedings when the employer is a legal person.

► *Article 5 – Right to organise*

It has not been established that:

- employees are adequately protected against discrimination on grounds of trade union membership in practice;
- trade unions are entitled to perform and indeed perform their activities without interferences from authorities and/or employers;
- the conditions possibly established with respect to representativeness of trade unions are not detrimental to the right to organise;
- members of the police and those employed in internal affairs, customs and taxation, in judicial bodies and the office of the public prosecutor enjoy the right to organise.

► *Article 651 – Right to bargain collectively – Joint consultation*

- Joint consultation does not take place at several levels;
- Joint consultation does not cover all matters of mutual interest of workers and employers;
- Joint consultation does not take place in the public sector including the civil service.

► *Article 652 – Right to bargain collectively – Negotiation procedures*

- The promotion of collective bargaining is not sufficient;
- It has not been established that an employer may not unilaterally disregard a collective agreement;
- It has not been established that the legal framework allows for the participation of employees in the public sector in the determination of their working conditions.

► *Article 654 – Right to bargain collectively – Collective action*

- It has not been established that in general the right to collective action of workers and employers, including the right to strike, is adequately recognized;
- Restrictions on the right to strike in certain sectors are too extensive and go beyond the limits permitted by Article G.

► *Article 2651 – Right to dignity in the workplace – Sexual harassment*

It has not been established that:

- there is adequate prevention of sexual harassment in relation to the workplace;
- the existing framework in respect of employers' liability provides sufficient and effective measures against sexual harassment in relation to work;
- a shift in the burden of proof applies in sexual harassment cases before civil courts;
- there is appropriate and effective redress (compensation and reinstatement) in cases of sexual harassment.

► *Article 2652 – Right to dignity in the workplace – Moral harassment*

It has not been established that:

- there is adequate prevention of moral (psychological) harassment in relation to the workplace;

- the existing framework in respect of employers' liability provides sufficient and effective measures against moral (psychological) harassment in relation to work;
- a shift in the burden of proof applies in moral (psychological) harassment cases before civil courts;
- appropriate and effective redress (compensation and reinstatement) is guaranteed in cases of moral (psychological) harassment.

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

The right of workers to be consulted in collective redundancy procedures is not effectively secured.

#### **Thematic Group 4 «Children, families, migrants» - Conclusions 2015**

► *Article 7§1 - Right of children and young persons to protection - Prohibition of employment under the age of 15*

- The prohibition of employment under the age of 15 does not apply to all economic sectors and all forms of economic activity;
- The daily and weekly working time for children under 15 is excessive and therefore cannot be qualified as light work;
- During the reference period there was no labour inspection supervising that the regulations on child labour were respected in practice.

► *Article 7§2 - Right of children and young persons to protection - Prohibition of employment under the age of 18 for dangerous or unhealthy activities*

During the reference period there was no labour inspection to supervise how the regulations regarding the prohibition of employment of young persons under 18 for dangerous or unhealthy activities were implemented in practice.

► *Article 7§3 - Right of children and young persons to protection - Prohibition of employment of children subject to compulsory education*

- The daily and weekly duration of light work permitted to children subject to compulsory education is excessive and therefore cannot be qualified as light work;
- During the reference period there was no labour inspection to monitor the conditions of work of children who are still subject to compulsory education.

► *Article 7§4 - Right of children and young persons to protection - Working time*

During the reference period there was no labour inspection to monitor the working time of young persons under 18 years of age who are no longer subject to compulsory schooling.

► *Article 7§5 - Right of children and young persons to protection - Fair pay*

It has not been established that the minimum wage paid to young workers is fair (**Conclusions 2017 and 2015**).

► *Article 7§6 - Right of children and young persons to protection - Inclusion of time spent on vocational training in the normal working time*

The time spent in vocational training is not included in the normal working time and remunerated as such.

► *Article 7§8 - Right of children and young persons to protection - Prohibition of night work*

During the reference period there was no labour inspection to monitor how the regulations regarding prohibition of night work of young persons under 18 years of age were implemented in practice.

► *Article 7§9 - Right of children and young persons to protection - Regular medical examination*

It has not been established that there is an initial medical check-up at recruitment and regular medical check-ups thereafter of young workers under 18 years of age employed in occupations specified by national laws and regulations (**Conclusions 2017 and 2015**).

► *Article 8§5 - Right of employed women to protection of maternity - Prohibition of dangerous, unhealthy or arduous work*

During the reference period, there were no adequate regulations on dangerous, unhealthy and arduous work in respect of pregnant women, women who have recently given birth or who are nursing their infant (Conclusions 2017).

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

Not all forms of corporal punishment are prohibited in the home, in schools and in institutions (**Conclusions 2017**).

► *Article 19§1 - Right of migrant workers and their families to protection and assistance - Assistance and information on migration*

No appropriate measures have been taken to counter misleading propaganda relating to emigration and immigration (**Conclusions 2017**).

► *Article 19§4 - Right of migrant workers and their families to protection and assistance - Equality regarding employment, right to organise and accommodation*

It has not been established that equal treatment is secured in practice between migrant workers and nationals with regard to remuneration and working conditions, and accommodation (**Conclusions 2017**).

► *Article 19§6 - Right of migrant workers and their families to protection and assistance - Family reunion*

It has not been established that the State facilitates as far as possible the reunion of the families of foreign workers (**Conclusions 2017 and 2015**).

► *Article 19§10 - Right of migrant workers and their families to protection and assistance - Equal treatment for the self-employed*

The grounds of non-conformity under Articles 19§1, 19§3, 19§4, 19§6 and 19§11 apply also to self-employed migrants.

► *Article 27§1 - Right of workers with family responsibilities to equal opportunity and treatment - Participation in working life*

- It has not been established that there are employment services providing vocational guidance, training and retraining of workers with family responsibilities;
- It has not been established that the legislation provides for facilitation of reconciliation of working and private life for persons with family responsibilities;
- It has not been established that workers on parental leave maintain their social security rights (**Conclusions 2017 and 2015**).

► *Article 27§2 - Right of workers with family responsibilities to equal opportunity and treatment - Parental leave*

- It has not been established that fathers have a right to use a part of parental leave on an individual, non-transferable basis;
- It has not been established that arrangements (i.e. benefits under social security or social assistance schemes) exist for remuneration of parental leave (after 183 days) or extra child care leave of absence (**Conclusions 2017 and 2015**).

**The Committee has been unable to assess compliance with the following provisions and has invited the Georgian Government to provide more information in the next report:**

**Thematic Group 1 « Employment, training and equal opportunities »**

- ▶ Article 15§3 - Conclusions 2016

**Thematic Group 2 « Health, social security and social protection »**

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**Thematic Group 3 « Labour rights »**

- ▶ Article 4§2 - Conclusions 2018

**Thematic Group 4 « Children, families, migrants »**

- ▶ Article 19§2 - Conclusions 2015
- ▶ Article 19§11 - Conclusions 2017
- ▶ Article 19§12 - Conclusions 2015

## **II. Examples of progress achieved in the implementation of rights under the Charter (non-exhaustive list)**

### **Thematic Group 1 « Employment, training and equal opportunities »**

► Law on the Elimination of All Forms of Discrimination, which was enacted by the Georgian parliament on 2 May 2014 and entered into force on 7 May 2014. Its purpose is to eliminate discrimination on various grounds including health and disability (Article 1). The law prohibits all discrimination, both direct and indirect (Articles 2 §2 and 2 §3), and also introduces the notion of positive action in the context of promoting gender equality and in certain specific cases involving, *inter alia*, disability.

### **Thematic Group 2 « Health, social security and social protection »**

► The launching of a Universal Healthcare Programme in February 2013, by virtue of which the personal coverage of health care has been significantly extended, from 29.5% of the population in 2010, to 100% after 2013. The Universal Healthcare Programme covers the basic package of planned and emergency in- and out-patient clinical care, including oncology and maternity services (see information provided under Article 11 of the National Report).

► The extension, in 2013, of paid maternity leave from 126 to 183 days (and from 140 to 200 days in case of complications) and the increase of minimum maternity benefits from GEL 600 to GEL 1000 (€382 at the rate of 31/12/2015).

### **Thematic Group 3 « Labour rights »**

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### **Thematic Group 4 « Children, families, migrants »**

► According to Article 27 of the Labour Code, as amended by Organic Law of Georgia No.1393/ 2013, an employee (at her request) shall be granted maternity and child care leave of absence of 730 calendar days. 183 calendar days of maternity and child care leave of absence shall be paid. 200 calendar days shall be paid in the event of pregnancy complication or multiple births.