

## — Austria and the European Social Charter —

### Ratifications

Austria ratified the European Social Charter on 29/10/1969, accepting 62 of the Charter's 72 paragraphs. It has signed but not ratified the Additional Protocol to the Charter on 4/12/1990.

It has ratified the Amending Protocol to the Charter on 13/07/1995.

Austria has signed, but not yet ratified, the Additional Protocol providing for a system of collective complaints. It has signed but not yet ratified the Revised European Social Charter.

### Table of Accepted Provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	3.1	3.2	3.3
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
9	10.1	10.2	10.3	10.4	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	16	17	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
AP1	AP2	AP3	AP4	AP = Additional Protocol				Grey = Accepted provisions			

### The Charter in domestic law

Statutory ad hoc incorporation by specific implementing legislation.

### Reports\*

Between 1972 and 2009, Austria submitted 27 reports on the application of the Charter.

The [26<sup>th</sup> report](#), on the provisions of the Charter related to Thematic Group 2 "Health, social security and social protection" (Articles 3, 11, 12, 13 and 14 of the Charter) was submitted on 31/10/2008. Conclusions in respect to these provisions will be published in January 2010.

The [27<sup>th</sup> report](#), submitted on 19 October 2009, concerned the provisions accepted by Austria relating to Thematic Group 3 "Labour rights", i.e.

- Right to just conditions of work (Article 2§§2, 3, 4 and 5)
- Right to a fair remuneration (Article 4§§1, 2, 3 and 5)
- Right to organise (Article 5)
- Right to bargain collectively (Article 6§§1, 2 and 3)

\* [Following a decision taken by the Committee of Ministers in 2006](#), 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.

## **Situation of Austria with respect to the application of the Charter**

### **Examples of progress achieved following conclusions or decisions of the European Committee of Social Rights<sup>1</sup>**

#### **Non-discrimination (Nationality)**

- ▶ Children of Turkish residents legally employed in the labour market are now entitled to the exemption certificate allowing them to work anywhere in Austria once they have lived in the country for five years (according to the terms of the Association Agreement between Turkey and the EU and the decision taken by the Association Council in 1998).
- ▶ Repeal of the nationality condition for payment of the emergency assistance (*Notstandshilfe*) (legislative amendments effective since 1 April 1998).
- ▶ Adoption of a legislation to guarantee an equal treatment between Austrian nationals and nationals of other States Parties with regard to eligibility for scholarships (entry into force on 16 February 2006)
- ▶ Preparation of a draft legislation amending the University Studies Act under which Nationals of other States Parties who are not nationals of the European Economic Area and are lawfully resident or regularly working in Austria are granted access to university education only subject to the availability of places (draft legislation at the agenda of the Parliament in 2009).
- ▶ Removal of the three-months employment requirement for nationals of other States Parties to benefit from childcare benefits and large-families allowances.

#### **Non-discrimination (Sex)**

- ▶ Entitlement of workers to take legal action before a court to ensure the observance of the principle of equal pay for women and men (Act of 23 February 1979 on equality of treatment).

#### **Non-discrimination (Disability)**

- ▶ Adoption of a compendium of laws prohibiting discrimination on the ground of disability in a day-to-day context (excluding working environment).

#### **Children**

- ▶ Increase of the penalty for the abuse of children under 14 years of age. Introduction of provisions stipulating that the statute of limitation in the case of certain sexual offences committed against children does not begin to run until the age of majority has been reached (amendments made in 1998 to the criminal law on sexual offences).

#### **Employment**

- ▶ Repeal of the 1885 Vagrancy Act and of Article 305 of the Criminal Code (Act of 1 January 1975).
- ▶ Adoption of a legislation on 14 January 2006 allowing all foreigners to be elected to work councils.
- ▶ Conclusion in 2009 of a framework agreement by social partners in order to reach a minimum wage of € 1,000 gross for workers in all sectors of the economy

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<sup>1</sup> « 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 » (Article 2 of the Rules of the Committee).

## Cases of non-conformity

### First thematic group "Employment, training and equal opportunities"

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

Article 852 of the Aliens Employment Act requires an employer when making job cuts to make foreign workers redundant first, which amounts to discrimination prohibited by the Charter.

([Conclusions XIX-1](#))

► *Article 1051 – Right to vocational training - Promotion of technical and vocational training ; access to higher technical and university education*

Nationals of other States Parties who are not nationals of the European Economic Area and are lawfully resident or regularly working in Austria are granted access to university education only subject to the availability of places.

([Conclusions XIX-1](#))

► *Article 1054 – Right to vocational training - Encouragement for the full utilisation of available facilities*

Equal treatment of nationals of other States Parties lawfully resident or regularly working in Austria is not guaranteed with regard to fees and to financial assistance for training.

([Conclusions XIX-1](#))

### Second thematic group: "Health, social security and social protection"

► *Article 351 - Right to safe and healthy working conditions - Safety and health regulations* Self-employed Workers are not sufficiently covered by occupational health and safety regulations.

([Conclusions XIX-2](#))

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

The level of unemployment benefits for single persons is manifestly inadequate.

([Conclusions XIX-2](#))

### Third thematic group: "Labour rights"

► *Article 451 – Right to a fair remuneration - Decent remuneration*

Il n'est pas établi qu'un niveau de vie décent est garanti aux travailleurs célibataires percevant le salaire minimum.

([Conclusions XVIII-2](#))

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

It is not possible to make wage comparisons outside individual enterprises.

([Conclusions XVIII-2](#))

► *Article 5 – Right to organise*

Foreigners can not stand for elections to works councils unless they have the nationality of a member State of the European Union or a State party to the European Economic Area Agreement.

([Conclusions XVIII-1](#))

#### **Fourth thematic group: "Children, families and migrants"**

▶ *Article 16 – Right of the family to social, legal and economic protection*

Equal treatment for nationals of States party to the Charter and the revised Charter regarding the payment of family benefits and housing allowances is not ensured.

([Conclusions XVIII-1](#))

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

Austrian law and practice do not provide for family reunion up to the age of 21 for the children of all migrant workers who are nationals of States party to the Charter and the revised Charter not covered by EU regulations or the European Economic Area Agreement.

([Conclusions XVIII-1](#))

**The Committee was unable to assess whether the following rights are respected and invited the Austrian Government to provide for additional information in its next report on the following provisions:**

#### **First thematic group "Employment, training and equal opportunities"**

(Report due by 31 October 2011)

▶ Article 15§§1 and 2 - Conclusions XIX-1

▶ Article 18§§1 and 2 - Conclusions XIX-1

#### **Second thematic group: "Health, social security and social protection"**

(Report )

▶ Article 12§2 – Conclusions XIX-2

#### **Third thematic group: "Labour rights"**

(Report submitted on 19 October 2009, Conclusions to be published end of 2010)

▶ Article 2§4 – Conclusions XVIII-2

#### **Fourth thematic group: "Children, families and migrants"**

(Report due by 31/10/2010)

▶ Article 7§§3 and 10 – Conclusions XVII-2

▶ Article 8§2 – Conclusions XVII-2