

– Poland –

Ratifications

Poland ratified the European Social Charter on 25/06/1997. Poland has accepted 58 of the Charter's 72 paragraphs.

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								= Accepted provisions

Poland ratified Protocol No. 2 reforming the control mechanism on 25/06/1997.

Poland signed the Revised Social Charter on 25/10/2005.

Poland has neither signed nor ratified Protocol No. 1 which adds new rights, nor Protocol No. 3 on the "collective complaints" procedure.

Reports

Between 1999 and 2006, Poland submitted 6 reports on the application of the Charter. The 6th report on non hard core provisions of the Charter was submitted on 28 April 2006.

The 7th report will concern the provisions related to the theme 'Employment, Training and Equal Opportunities' (Articles 1, 9, 10, 15, 18 of the Charter and Article 1 of the 1988 Protocol). The 7th report should be submitted before 31 October 2007.

Poland's record with respect to application of the Charter is the following as of 1 July 2007.

Examples of progress made or under way

Health

- ▶ The Act of 23 January 2003 is expected to remedy previous shortcomings concerning waiting time for some medical treatment, as well as mismanagement of waiting lists.

Movement of persons

- ▶ The Act of 1 July 2001 expressly guarantees the right to family reunion of the migrant workers' family members.

Employment

- ▶ With Poland's accession to the European Union, there is no longer a nationality requirement for access to the professions of sworn translator or to paramedics.

Non discrimination (nationality)

▶ The 2004 legislation on employment promotion and labour market institutions makes everyone eligible for vocational guidance, irrespective of nationality. Nationals of other states party to the European Social Charter are therefore entitled to equal treatment.

▶ The Act of 8 December 2000 amending the 1990 Higher Education Act lays down procedures by which foreign nationals can follow a course offered by a Polish higher education establishment. Nationals of other states party to the Social Charter may undertake and continue studies at higher education establishments in Poland in accordance with international agreements and their provisions, including the European Social Charter.

Cases of non-compliance

Health

▶ *Article 3§1 – Issue of safety and health regulations*

Self-employed workers are not sufficiently protected by legislation or other measures as regards health and safety at work

▶ *Article 3§2 –right to health and safety at work*

Private farms fall outside the inspection system in Poland; the number of accidents in farms is extremely high.

Non discrimination (nationality)

▶ *Article 1§1 – policy of full employment*

The employment policy effort is inadequate in the light of the level of unemployment and long-term unemployment.

▶ *Article 1§2 – non-discrimination in employment*

1. Discrimination of nationals of the other Contracting Parties of the Charter wishing to practice medicine in Poland, as they require the discretionary authorisation of the National Chamber of Physicians.

2. Driving test examiners must be Polish nationals

▶ *Article 1§4 – non discrimination (vocational guidance and training)*

Discrimination of nationals of the other Contracting Parties of the Charter, lawfully resident or regularly working in Poland as regards continuing vocational training (length of residence requirement).

▶ *Article 12§4 –social security of persons moving between states*

Aggregation of insurance or employment periods is not provided for in the absence of bilateral or multilateral agreements.

▶ *Article 13§3 – Prevention, abolition or alleviation or need*

Access to social services by nationals of other Contracting parties of the Charter is subject to an excessively long length of residence requirement.

▶ *Article 14§1 – provision or promotion of social welfare services*

Equal treatment for nationals of other Contracting Parties to the Charter and of States Parties to the Revised European Social Charter lawfully resident or regularly working in Poland with respect to access to social services is not guaranteed (excessive length of residence requirement).

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

Equal treatment for nationals of Contracting Parties and State Parties to the Revised Charter to the Charter with respect to the payment of family benefits is not ensured because of a residence requirement.

Disability

▶ *Article 15§2- Employment for persons with disabilities*

Legislation on non discrimination in employment makes no provision for reasonable accomodation

Children

▶ *Article 7§10 – protection of children against physical and moral dangers*

Young persons between the ages of 15 and 18 are not adequately protected against all forms of sexual exploitation, in particular child pornography.

▶ *Article 17 -right of mothers and children to social and legal protection)*

1. Corporal punishment of children in the home is not prohibited;
2. The maximum length of detention on remand (two years) is excessive;
3. Children may be detained for "moral depravity".

Movement of persons

▶ *Articles 19§8 and 19§10 –guarantees concerning deportation*

The Aliens Act of 25 June 1997 authorises the expulsion of foreigners if they are guilty of offences under the 1997 Aliens Act which go beyond the grounds admitted under Article 19§8. The same applies to self-employed workers.

Social protection

▶ *Article 12§1 – right to social security*

The level of unemployment benefit is manifestly inadequate.

▶ *Article 12§3 – development of the social security system*

Recent reforms have led to restrictions with respect to unemployment benefits and family benefits.

Employment

▶ *Article 1§1 – policy of full employment*

The employment policy effort is inadequate in the light of the level of unemployment and long-term unemployment.

▶ *Article 2§1 – right to reasonable working time*

Working hours may under certain circumstances be up to 16 hours in a 24-hour period and up to 72 hours weekly.

▶ *Article 4§2 – right to increased remuneration for overtime*

For certain categories of workers, the increased rate of remuneration provided by the Labour Code may be replaced by a period of rest of equal duration (and not more). In the public sector, civil servants are only granted a period of rest equal to overtime.

▶ *Article 4§4 – right to a reasonable period of notice of dismissal*

A fixed term contract of more than 6 months' duration may be terminated by a 2-week notice which does not constitute a reasonable period of notice.

▶ *Article 4§5 – right to limitation of deduction from wages*

Workers may be left, after deductions from wages, with less than the minimum subsistence amount.

▶ *Article 5 – right to organise*

There are restrictions to the right to organise of civil servants, retired persons, homeworkers and of the unemployed.

▶ *Article 8§2 –prohibition of dismissal during maternity leave*

In certain circumstances an employer can alter the terms and conditions of the employee during the protected period and if the woman rejects this the employment contract can be terminated.