

## — Luxembourg —

### Ratifications

Luxembourg ratified the European Social Charter on 10/10/1991. Luxembourg has accepted 69 of the Charter's 72 paragraphs.

Luxembourg has signed but not yet ratified the Revised Charter, Protocol No. 1 which adds new rights or Protocol No. 2 reforming the control mechanism. It has neither signed nor ratified Protocol No. 3 providing for a system of collective complaints.

|      |      |      |      |      |      |      |      |                       |      |      |       |
|------|------|------|------|------|------|------|------|-----------------------|------|------|-------|
| 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 |      |      |       |

### Reports

Between 1993 and 2003, Luxembourg submitted 7 reports on the application of the Charter. The 9<sup>th</sup> report on the hard core provisions of the Charter was due before 30/06/2005 and it was received between 20/09/2005 and 06/06/2006. The 10<sup>th</sup> report on the non core provisions of the Charter was due before 31/03/2006 and it was received partially between January and April 2007.

The next report will concern the provisions accepted by Luxembourg, i.e. those related to the theme Employment, training and equal opportunities (Articles 1, 9, 15, 18, 20 and 24 of the revised Charter). It should be submitted before 31/10/2007.

### The Charter in domestic law

Automatic incorporation into domestic law.

Luxembourg's record with respect to application of the Charter is the following as of 1 October 2007:

## Examples of progress achieved or being achieved

### Social Protection

▶ The minimum age requirement for entitlement to the guaranteed minimum wage has been lowered to 25 years and the condition of residence reduced to 5 years (Act of 29 April 2000). *Article 13§1 – adequate assistance for every person in need*

### Employment

▶ It is now forbidden to give a woman notice of dismissal during maternity leave and a woman unlawfully dismissed may now request that her dismissal be annulled and that she be maintained in her job (Act of 7 July 1998). *Article 8§2 – prohibition of dismissal during maternity leave.*

## Cases of non-compliance

### Non-discrimination (nationality)

Discrimination against non EU or EEA nationals in the following matters:

▶ *Article 10§4 – full use of available facilities.* Nationals of non-EU states party to the Charter or the revised Charter residing or working lawfully in the country are not guaranteed equal treatment with regard to financial assistance for training.

▶ *Article 19§4 – right to equal treatment in trade union matters* Eligibility for election to joint works councils.

▶ *Articles 19§7 and 19§10 – right to equal treatment in respect of legal proceedings.* Nationals of States that have not ratified the 1954 Hague Convention on Civil Procedure are obliged to lodge a security when applied for by the defendant and agreed to by the court. The same applies to self-employed workers.

### Non-discrimination (Disability)

▶ *Article 15§1 – right of disabled persons to vocational training*

There is no specific legislation prohibiting discrimination on grounds of disability covering education and training.

▶ *Article 15§2 – employment of persons with disabilities.* There is no specific legislation prohibiting discrimination on grounds of disability in employment

### Children

▶ *Article 7§4 – working conditions between the age of 15 and 18 (working time).* Working time for young people under 16 (up to 8 hours per day and 40 hours per week) is excessive.

▶ *Article 7§5 – fair pay.* The wages paid to apprentices in their third year are less than two thirds of the minimum wage of an adult.

### **Health**

▶ *Article 2§4 – right to compensatory time off in dangerous occupations.* There is no system for reducing working time or giving additional paid leave to those employed in dangerous or unhealthy occupations.

▶ *Article 11§3 – right to protection of health, prevention of diseases.* No particular regulation governing the supply of tobacco and alcohol has been adopted.

### **Social Protection**

▶ *Article 13§1 – adequate assistance for every person in need.* Eligibility for RMG is subject to a minimum age of 25 and five years' residence, there being no right to social assistance for those not eligible for RMG.

### **Employment**

▶ *Article 3§2 – right to safe and healthy working conditions - provision for the enforcement of safety and health regulations by measures of supervision.* The number of occupational accidents is manifestly too high.

▶ *Article 4§2 – right to increased remuneration for overtime.* After the ninth hour of overtime, State officials and employees are not entitled to an increased compulsory rest period or to increased remuneration if the overtime was performed between 6 and 10 p.m. or not during the weekend or public holidays.

▶ *Article 5 – right to organise* National law does not permit trade unions to freely choose their candidates in joint works council elections, regardless of their nationality.

### **Movement of persons**

▶ *Articles 19§6 and 19§10 – right to family reunion.* The Government has not established that all migrant workers who are nationals of Contracting Parties are entitled to family reunion. The same applies to self-employed workers.

▶ *Articles 19§8 and 19§10 – right to guarantees in case of expulsion.* The grounds for expulsion provided by the amended Act of 28 March 1972 on the entry and stay of foreign nationals, their medical examination and employment go beyond those permitted by the Charter. The same applies to self-employed workers.

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

- ▶ *Article 4§1 - right to an adequate remuneration*
- ▶ *Article 13§4 - specific emergency assistance for non-residents*