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17th National Report on the implementation of the European Social Charter

submitted by

THE GOVERNMENT OF SLOVENIA

Article 2, 4, 5, 6, 21, 22, 26, 28 and 29 for the period 01/01/2013 - 31/12/2016

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The Seventeenth Report of the Republic of Slovenia

on the Implementation of the Revised European Social Charter

Articles 2, 4, 5, 6, 21, 22, 26, 28, 29
(Thematic group "Labour rights")

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INTRODUCTION

The European Social Charter (Revised) (hereinafter: RESC) was adopted by the Council of Europe in 1996. The Republic of Slovenia signed the RESC on 11 October 1997; the act on ratification was adopted by the National Assembly of the Republic of Slovenia on 11 March 1999 (Official Gazette of the Republic of Slovenia [*Uradni list RS*] – International Treaties, No. 7/99). The Charter was ratified on 7 May 1999 and entered into force on 1 July 1999. In addition to the ratification of the RESC, the Republic of Slovenia also assumed responsibility for monitoring the commitments in the RESC as per the procedure determined by the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints (hereinafter: Additional Protocol).

In line with the existing reporting system – which since 2014 has included simplified periodical reporting for the RESC signatories, which adopted a mechanism for collective complaints as well, and which has also maintained the reporting by thematic groups; however, in different time dynamics – the Republic of Slovenia must submit a report on the implementation of the RESC articles from the thematic group of labour rights (articles 2, 4, 5, 6, 21, 22, 26, 28, 29). The European Committee of Social Rights (hereinafter referred to as: ECSR) does not request additional information on the implementation of the articles from the thematic group of employment, training and equal opportunities from Slovenia.

The last report on the implementation of the articles on labour rights was submitted by Slovenia to the Council of Europe in December 2013 for the reporting period from 1 January 2009 to 31 December 2012 (Thirteenth National Report of the Republic of Slovenia on the implementation of the European Social Charter, which was adopted by the Government of the Republic of Slovenia on 12 December 2013). Based on this report, the ECSR adopted Conclusions 2014, where they conclude that the situation in Slovenia **has been in conformity with the RESC in seventeen cases, but not in two cases** (articles 2§1– Reasonable daily and weekly working hours in 4§4 – Reasonable notice of termination of employment). The ECSR deferred conclusions about the implementation of articles 2§2, 4§1, 4§3 and 4§5, because they need further information to adopt decisions, which Slovenia provides in this report.

The seventeenth Report of the Republic of Slovenia on the implementation of the RESC concerns the reporting period 1 January 2013 to 31 December 2016 and includes legislative and other measures in the aforementioned period, statistical and other data on the implementation of individual RESC provisions and answers to the questions of the ECSR from the Conclusions 2014. In the reporting period, the Employment Relationship Act was adopted (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 21/13, 78/13 – corr., 47/15 – ZZSDT, 33/16 – PZ-F, 52/16 and 15/17 – Decision of the Constitutional Court; hereinafter: ZDR–1) replacing the Employment Relationship Act from 2002 (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 42/02, 79/06 – ZZZPB-F, 103/07, 45/08 – ZArbit and 21/13 – ZDR-1).

Article 2: The right to just conditions of work

2§1 Reasonable daily and weekly working hours

The ECSR concludes that the situation in Slovenia is not in conformity with the RESC on the ground that in some collective agreements on-call time spent at home in readiness for work during which no effective work is undertaken is assimilated to rest periods.

The Government of the Republic of Slovenia (hereinafter: the Government of the RS) hereby explains that Article 142 of the **ZDR-1** determines as effective working hours the hours during which a worker is at the employer's disposal and fulfils his working obligations arising from the employment contract. The ZDR-1 does not specifically regulate on-call time spent at home as a form of work organisation, so it does not stipulate whether on-call time is considered working hours or not. The above-mentioned is mostly regulated with sector-specific legislation (e.g. the Defence Act, the Organisation and Work of the Police Act, the Health Services Act, etc.) and with collective agreements.

Article 158 of the ZDR-1 is the basis for a **different regulation of working hours**, night work and breaks and rest periods **in an act or collective agreements**. For activities or jobs, types of work or occupations where the nature of work requires permanent presence, where the nature of an activity requires the continuous provision of work or services, or where an irregular or increased scope of work is foreseen, an Act or branch collective agreements may stipulate that the average minimum daily or weekly rest periods as laid down in an Act shall be assured within a longer period, which, however, should not exceed six months.

The Government of the RS believes that the regulation of daily and weekly working hours in Slovenia is in conformity with the relevant international treaties and the practice of the Court of Justice of the European Union. With regard to standby duty, the practice of the Court of Justice of the European Union applies, namely, that standby duty **at the workplace** fully counts as working hours, and for the rest of the standby period **outside the workplace,** working hours include actually performed work (effective work). A worker is entitled to an allowance (different collective agreements set different percentages of the basic salary) for standby duty (during or outside working hours), and **in both cases the employee must take into account the statutory limitations with regard to rest**.

The Government of the Republic of Slovenia emphasises that the legislator has no jurisdiction to change collective agreements. The conformity of collective agreements with the law is verified in collective labour disputes before the competent labour court and social court. From the publicly accessible review of the case law of the Higher Labour and Social Court of the Republic of Slovenia it is not evident that the same court would conduct any conformity assessments of any

collective agreements with the provisions of the ZDR-1 on the provision of daily and weekly rest periods. Data on the practice of labour courts is not available.

In connection with the ECSR question as to whether any measures were taken by Slovenia to ensure that home workers do not work more than 16 hours a day or 60 hours per week, the Government of the RS explains that the ZDR-1 applies to all employment relationships concluded in the territory of the Republic of Slovenia, regardless of the place of work (the employer's premises, work from home). In light of the provision of paragraph two of Article 155 of the ZDR-1, which stipulates that in 24 hours a worker whose working hours are irregularly distributed or temporarily redistributed has a right to rest for a minimum of 11 hours without interruption, working hours may not exceed 13 hours per day. An employer who does not ensure daily rest to a worker is punished by a fine of EUR 1,500 to EUR 4,000 (based on point 15 of paragraph one of Article 217.a of the ZDR-1).

If a worker believes that the employer has failed to fulfil his obligations arising from the employment relationship or that he has breached any of the worker's rights arising from the employment relationship, the worker must first demand that the employers eliminate the breach and fulfil their obligations. If the employer fails to meet their obligations or to eliminate the breach, the employee may bring proceedings before the competent labour court. They may also inform the Labour Inspectorate of Republic of Slovenia (hereinafter referred to as: IRSD) of the violation.

In the period between 2013 and 2016 **inspections** established quite a few breaches of the ZDR-1 provisions and the previously applicable Employment Relationship Act regarding rest between two consecutive working days and weekly rest.

Table 1: Number of detected breaches of the obligation to ensure rest (between two consecutive days, weekly rest) in the period between 2013 and 2016

	2013	2014	2015	2016
Number of breaches of obligation to ensure rest between two consecutive working days	135	162	181	177
Number of breaches of obligation to ensure weekly rest	132	185	190	167

Source: IRSD.

Inspectors note that such breaches occur in work activities where project activities are carried out or where deadlines for delivery are set, which is why workers also work on Saturdays and Sundays. Often, breaches were found at smaller employers, particularly in catering and trading services, where only one or two workers work for one employer.

2§2 Public holidays with pay

The Government of the Republic of Slovenia explains that for work during a public holiday a worker is eligible to a basic salary and allowance for work on a public holiday or work-free day.

Namely, with regard to holidays and work-free days, Article 166 of the ZDR-1 lays down that workers have the right to absence from work on public holidays in the Republic of Slovenia, specified as work-free days, and on other work-free days defined as such by an Act. In exceptional cases, this right may be restricted in cases when the work and/or production process is carried out uninterruptedly or when the nature of work requires work on public holidays.

With regard to the provision of paragraph two of Article 137 of the ZDR-1, workers have the right to wage compensation for holidays or other work-free days, that is for the same number of days and hours as the obligation to work on the day when a worker does not work due to a holiday or a work-free day. If, regardless of the planned obligation to work, a worker is obliged to work on a holiday or a work-free day, he/she is not eligible for wage compensation; however, he/she is eligible for remuneration for work in line with his/her employment contract and to an allowance paid for working on a holiday or a work-free day, the amount of which is stipulated by means of a collective agreement at the branch level. Based on the above-mentioned regulation, it can be established that the worker has a legal right to the said allowance. It should also be noted that the Constitutional Court took the view that the principle of equality is complied with, if anyone who would have to work under the normal schedule on a holiday would be eligible for one of the bonuses – either to the right of rest or to the right of a higher wage. Regarding compensatory time and allowances, we would hereby like to refer to the case law, in which, in connection with the allowance (namely for overtime), it has been found that even compensation for overtime with free hours is appropriate compensation for overtime if the employer includes the payment of an allowance expected for the otherwise provided payment of overtime (judgement VSRS VIII Ips 80/2015).

2§3 Annual holiday with pay

The Government of the Republic of Slovenia hereby explains that the ZDR-1 stipulates the acquisition of the right to annual holiday with pay and a minimum duration of the annual holiday. With regard to the minimum duration, there have been no changes (compared with the previous ZDR) and with regard to the acquisition of the rights, the ZDR-1 introduces the following novelty.

In contrast to the previous regulation, under which the worker obtained the right to the full annual holiday after the expiry of the six-month period of employment relationship, the implementation of the ZDR-1 provided the worker with the right to an annual holiday by concluding an employment

relationship (full or a proportionate part, depending on the period of employment in the calendar year). A worker who enters into an employment relationship after the start of the calendar year or whose period of employment in an individual calendar year is shorter than one year shall have the right to 1/12 of the annual leave for each month of employment (hereinafter: proportionate part of annual leave). A worker who enters into an employment relationship and has a shorter period of employment in the first year and thus the right to a proportionate part of annual leave in this calendar year obtains the right to use annual leave for the following calendar year at the beginning of the following calendar year. The solution allowing the employer to request that workers plan to at least two weeks of annual leave for the current calendar year is new. Taking into account the new case law of the Court of Justice of the European Union, a longer period was determined (by 31 December of the next calendar year) in which the worker may use the entire annual leave not used in the current calendar year or by the 30 June of the following calendar year for reasons of his/her absence due to illness or injury, maternity leave or parental leave. Based on the fact that in the case of the termination of employment the payment of the amount of money in exchange for the unused right to annual leave is compensation and not damages in civil law, the term damages has been replaced with the term compensation.

The Government of the Republic of Slovenia explains that the IRSD has not kept the statistics of breaches by individual types of compensation, and therefore the information on the number of established breaches of the right to the payment of wage compensation in the case of absence from work due to annual leave cannot be submitted.

2§4 Elimination of risks in inherently dangerous or unhealthy occupations

The Government of the Republic of Slovenia underlines that no legislative changes occurred during the reporting period. The applicable Occupational Health and Safety Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 43/11; hereinafter: ZVZD-1) determines the rights and obligations of employers and employees relating to safe and healthy work, as well as measures to ensure health and safety at work. The provisions of the ZVZD-1 apply to all work activities, which means that they apply to all occupations, including "dangerous and unhealthy occupations". If the provision of health and safety at work in the military activities of the Slovenian Armed Forces, police work or relief and aid in natural and other disasters performed by Civil Protection Service and other rescue services is regulated by specific regulations, the provisions of the ZVZD-1 do not apply. All employers and self-employed persons must identify hazards occurring in their work processes and assess the risks to which workers are, or could be, exposed in their work. If the assessed risks are unacceptable, employers are obliged to take measures to reduce the unacceptable risks and to provide for the health and safety of workers and other persons present in the work process.

With regard to written risk assessment and the suitability of risk identification, the suitability of risk assessment and the suitability of measures necessary for ensuring health and safety at work, the

competent inspectors found 1072 breaches in 2013, a few more i.e. 1393 in 2014, 1461 breaches in 2015 and 1549 breaches in 2016.

2§5 Weekly rest period

The regulation of the weekly rest period from Article 156 of the ZDR-1 has not changed compared to the previous regulation. Paragraph one of Article 156 stipulates that in addition to the right to 12 or 11 hours of daily rest period, workers have the right to a rest period of at least 24 uninterrupted hours within a period of seven successive days. Weekly rest must therefore last for 36 uninterrupted hours or 35 uninterrupted hours, even in cases when the worker's working time is irregularly distributed or temporarily redistributed. The Article does not stipulate **the right to a weekly rest** in a calendar week (from Monday to Wednesday), but **in a period of seven consecutive days**. Based on the distribution of the working time and the needs of the work process, any day of the week may be determined as the day of the weekly rest. Such regulation enables the determination of a weekly rest also to take into account the prevalent cultural, ethnic or religious values of the environment where the employers' business operations take place and the worker's interests are taken into account with the determination of the content of the employment contract. As a matter of fact, Sunday work is also recognised as a special working condition in the ZDR-1 (Article 128) with the right to additional payments. Paragraph two of Article 156 stipulates an exception to this rule in situations when a worker would exceptionally have to work on a day which is otherwise included in the time of weekly rest. This is particularly related to cases when a worker is ordered to do overtime work or when his/her working hours are temporarily redistributed. Such cases must be justified on objective, technical and organisational grounds. In such cases, a worker needs to be provided with a day of weekly rest on another day of the week; however, in any case, it must be taken into account that the weekly rest must last for 36 or 35 uninterrupted hours. Under the provision of paragraph three (Article 156), every worker must be ensured two rest periods of uninterrupted 36 or 35 hours in a period of 14 successive days. Derogations are possible in the cases in Article 157 and based on an act or a branch collective agreement in the cases in paragraphs two, three and four of Article 158.

<u>Article 157</u>

A worker and an employer may arrange working time, night work, breaks and daily and weekly rest periods in the employment contract in a different manner, irrespective of the provisions of ZDR-1, if the employment contract has been signed with

- a manager or a holder of procuration,
- an executive,
- a home worker,

and if the working time cannot be distributed in advance or if the worker can distribute his working time independently and if he is ensured health and safety at work.

<u>Paragraph two of Article 158</u>

- An Act or branch collective agreements may stipulate that the average minimum daily and weekly rest periods as laid down in an Act in cases of shift work shall be assured within a longer time period, which, however, should not exceed six months.

Paragraph three of Article 158

- For activities or jobs, types of work or occupations as referred to in paragraph four of this Article, an Act or branch collective agreements may stipulate that the average minimum daily or weekly rest periods as laid down in an Act shall be assured within a longer time period, which, however, should not exceed six months.

Paragraph four of Article 158

- According to the preceding paragraph, the right to daily or weekly rest periods may be provided for within activities or for jobs, types of work or occupations in the following cases:
  - where the nature of the work requires a permanent presence,
  - where the nature of the activity requires continuous work or the provision services, or
  - where an irregular or increased scope of work is foreseen.

The regulation of exemptions, which in compliance with this article may be enforced by means of acts in the field of individual branches, is without prejudice to the provision of Article 2 of the ZDR-1, which anticipates the possibility that issues related to working hours including breaks and rests should also be regulated differently in the public sector. Paragraphs two and three of Article 2 envisage a special regulation of working time, night work, breaks and rest periods for mobile workers and a special regulation of labour law issues for seafarers.

A special regulation of the right to weekly rest applies to workers under the age of 18. In paragraph four of Article 192, they are provided with the right to a weekly rest period of at least 48 consecutive hours.

The right to a weekly rest period is also provided to workers in voluntary traineeships without an employment contract (Article 124), secondary school and university students working on the basis of a referral for work (paragraph seven of Article 211) and workers who have been posted to do temporary work in Slovenia by a foreign employer (paragraph two of Article 210). The provisions ensuring weekly rest also apply to retired persons who do temporary and occasional work.

Table 2: Number of established breaches of obligation to ensure weekly rest periods in 2013 to 2016

	2013	2014	2015	2016
Number of breaches of obligation to ensure weekly rest	132	185	190	167

Source: IRSD.

2§6 Written information on the essential aspects of a contract or employment relationship

The Government of the Republic of Slovenia explains that, with the implementation of the ZDR-1, the obligatory elements of an employment contract which must be concluded in written form have been expanded. In addition to all the elements listed in the previous Act, it is necessary to state the reason for temporary employment in a fixed-term contract. The purpose of the change is to reduce segmentation in the labour market, prevent illegal fixed-term employment without a valid reason and simplify the implementation of inspections with regard to fixed-term employment.

In 2013, inspectors found 147 breaches of the provision of the act governing employment relationships, under which the employer must as a rule hand a written proposal for an employment contract to the worker three days before the envisaged conclusion of the contract, and the written employment contract upon conclusion. In 2014, several breaches were found, that is 154 breaches; in 2015 there were a few more, namely 186, and in 2016, there were 212 breaches of the above-mentioned provision.

2§7 Night work

The only novelty in the regulation of night work is that with the implementation of the ZDR-1 consent to women's night work is no longer necessary because of the termination of Convention No. 89 of the International Labour Organisation, i.e. the Convention concerning Night Work of Women Employed in Industry.

With regard to medical check-ups, the Government of the Republic of Slovenia explains that the employer must ensure medical check-ups for workers, which comply with the risks for the health and safety at work under Section 36 of the Occupational Health and Safety Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 43/11). More specifically, medical check-ups are defined in the Rules concerning the preventive medical examinations of workers (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 87/02, 29/03 – corr., 124/06 and 43/11 – ZVZD-1). Appendix 1 of the Rules defines the basic volume, content and deadlines of preventive medical examinations. This also applies to night work, and with regard to the latter, occupational medicine contractors are obliged to implement targeted examinations of the nervous system and senses, laboratory cholesterol testing, targeted psychological examinations and night vision testing. When workers do night work for an employer, the medical examination of workers must also include the aforementioned examinations, and workers must be provided with medical examinations in periods no shorter than 12 months or longer than 36 months.

The government of the Republic of Slovenia explains that the IRSD has kept statistics on all breaches with regard to medical examinations, but no separate statistics on breaches related to medical examinations and night work, so the latter information cannot be submitted.

Article 4: The right to fair remuneration

4§1 Decent remuneration

Minimum wage

The Minimum Wage Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 13/10 and 92/15) stipulates that the minimum wage is a monthly wage for the work done within full-time employment. The minimum wage is set as a gross amount and adjusted at least once a year to the rise in consumer prices (Article 5). The statutory minimum wage applies to all regions and branches. Until 1 January 2016, the minimum wage included all the elements of a wage[1] as stipulated by the ZDR-1 and the Act Amending the Minimum Wage Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. and 92/15) excluded some allowances[2] from the minimum wage. The objective of the amendment proposed by the trade unions was to ensure the equal treatment of workers working in less favourable working conditions.

Table 3: Minimum gross wage, average gross wage and the ratio between the two, 2013–2016

	Gross minimum wage	Average gross wage	Ratio
2013	784	1523	51.4
2014	789	1540	51.2
2015	791	1556	50.8
2016	791	1585	49.9

Source: IMAD, Development Report 2017

Table 4: Number of breaches of the Minimum Wage Act, 2013–2016

	2013	2014	2015	2016
Number of breaches	25	16	21	27

Source: IRSD

[1] Wage elements include:
- basic wage of a worker for a particular month,
- bonus for job performance,
- payment for business performance if agreed under a collective agreement or an employment contract and
- extra payments for night work, Sunday work, for work on statutory holidays and free days and for years of service.

[2] Additional payments no longer included in the minimum wage:
- extra payment for night work,
- extra payment for Sunday work,
- extra payment for work on statutory holidays and free days.

The data shows that employers largely take into account the statutory minimum wage and that they also pay it out, and this applies to all branches.

Regulation of wages in the public sector

Due to the economic and financial crises, the following regulations and collective agreements were adopted in the period between 1 January 2013 and 31 December 2016, and these affected the payment and payroll in the said period: Fiscal Balance Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 40/12, 96/12 – ZPIZ-2, 104/12 – ZIPRS1314, 105/12, 25/13 – Ruling of the Constitutional Court, 46/13 – ZIPRS1314-A, 56/13 – ZŠtip-1, 63/13 – ZOsn-I, 63/13 – ZJAKRS-A, 99/13 – ZUPJS-C, 99/13 – ZSVarPre-C, 101/13 – ZIPRS1415, 101/13 – ZDavNepr, 107/13 – Ruling of the Constitutional Court, 85/14, 95/14, 24/15 – Ruling of the Constitutional Court, 90/15, 102/15 and 63/16 – ZDoh-2R), Annexes Nos 5–8 to the Collective agreement for the public sector (Official gazette of the Republic of Slovenia [*Uradni list RS*], Nos 40/12, 46/13, 95/14, 91/15), Act Amending the Public Sector Salary System Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 46/2013; hereinafter: ZSPJS-R), Act Regulating Measures Relating to Salaries and Other Labour Costs in the Public Sector for 2015 (ZUPPJS15) (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 95/14) and Act Regulating Measures Relating to Salaries and Other Labour Costs for 2016 and other Measures in the Public Sector (ZUPPJS16) (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 90/15). Hereinafter follows a description of the fiscal consolidation measures which influenced the determination and payment of wages in the public sector between 1 January 2013 and 31 January 2016:

- non-adjustment of basic wages to the growth of consumer prices: in the period between 1 January 2013 to 31 December 2016 the basic wages of public sector employees were not adjusted to the rise in consumer prices;
- the lowered amount of basic wages: in compliance with the ZSPJS-R a new salary scale was determined as the basis for determining basic wages, where the values of basic wages were linearly lowered, which meant wages were from 0.5% to 5% lower; the lowered value of basic wages of public employees and high officials thus applied in the period between 1 June 2013 and 31 August 2016;
- job performance: in the period between 1 January 2013 and 31 December 2016, public employees were not entitled to the part of wage arising from regular job performance. Job performance based on excessive workload could be paid to a limited extent. For the payment of job performance arising from excessive workload in the performance of regular tasks, an authority could use a maximum of 60% to 31 December 2014, and from 1 January 2015 a maximum of 40% of the resources from the savings determined in Article 22.d of the Public Sector Salary System Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 108/09 – official consolidated text, 13/10, 59/10, 85/10, 107/10, 35/11 – ORZSPJS49a, 27/12

– Ruling of the Constitutional Court, 40/12 – ZUJF, 46/13, 25/14 – ZFU, 50/14, 95/14 – ZUPPJS15, 82/15 and 23/17 – ZDOdv). At the individual level, the amount of the part of the wage arising from excessive workload for doing the regular tasks of the user of budgetary funds amounted to a maximum of 20% of the basic wage of a public employee or to a total of maximum 30% of the basic wage of a public employee if some of the wage was paid for job performance arising from an excessive workload and also arising from resources for special projects (arising from regular work and projects and special projects);

- extra payments: in 2013, the extra payments for specialisation, masters and doctoral degrees was reduced by 50%, in compliance with Annex 6 to the Collective agreement for the public sector (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 46/2013). The lowered value of salary grades in the period from 1 June 2013 to 31 August 2016 consequently reduced the amount of extra payments paid as a percentage of the basic wage. (e.g. extra payments for less favourable working hours, for hazards and particular pressure, position bonus, continuity bonus, etc.);
- promotion: public employees and high officials who were eligible for promotion to a higher title or higher grade in 2013 and 2014 were not promoted to a higher title or higher grade. Public employees and high officials who were eligible for promotion to a higher grade or higher title in 2015 and 2016 did not obtain the right to the wage as of 1 April of the year in which the conditions for promotion were met, but with a delay, namely on 1 December 2015 or 1 December 2016.

The measures for fiscal balancing were taken to prevent public expenditure arising from wages in the public sector.

The findings of the IRSD with regard to breaches of the legal concept of payment for work

Table 5: Number of breaches of the legal concept of payment for work between 2013 and 2016

	2013	**2014**	**2015**	**2016**
TOTAL BREACHES	**3601**	**3542**	**3776**	**5013**
Breaches of payment of wages on payday	1549	1432	1453	1810
Payment of holiday bonus	1318	1213	1335	1592
Breach with regard to the place and method for paying wages	385	537	630	789
Other breaches with regard to wages (pay out of allowances, benefits, costs, etc.)	349	360	358	822

Source: IRSD.

The IRSD finds several breaches of the legal concept of payment for work; most of them were established in relation to the payment of wages on pay day, followed by breaches of holiday bonus pay-outs for annual leave and breaches with regard to the place and method for paying wages. In 2016, inspectors found 5013 breaches of the legal concept of payment for work, which is 40% of all breaches in the field of inspection of labour relations.

The Government of the Republic of Slovenia informs the ECSR that outside the reporting period, amendments to the Labour Inspection Act were adopted (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 19/14 and 55/17, the purpose of which is to tighten control and reduce the number of breaches with regard to the payment for work. If twice in a year an inspector finds by a final decision that an employer has not paid a wage in compliance with pay-day provisions, the work of workers or work process or the use of resources for work may be prohibited until the irregularities are eliminated. The effects of the adopted measure will be reported in the next report.

4§2 Increased remuneration for overtime work

The Government of the Republic of Slovenia explains that the regulation has not been changed and that IRSD has not statistically processed the data to enable reporting on breaches with regard to non-payment for overtime. Namely, breaches regarding non-payment for overtime work are included in the statistical data on breaches regarding the payment of salaries and are shown in the table on the number of breaches of the legal concept of payment for work to paragraph one of Article 4 (row: other breaches in relation to wages).

Linked to the right of workers to receive an allowance for special working conditions, which stems from the arrangement of working time for overtime work based on indent two of paragraph one of Article 128 of the ZDR-1 and the previously applicable Employment Relationship Act, the IRSD found 14 breaches of this provision in 2013. In 2014, 25 breaches with regard to the right to the allowance for overtime were found, and a few less in 2015, i.e. 14. In 2016, the number of breaches rose again, namely 43 breaches were found.

4§3 Non-discrimination between women and men with respect to remuneration

The Government of the Republic of Slovenia emphasises that, as per the ZDR-1, employers must ensure equal treatment irrespective of the personal circumstance to both candidates for employment and workers during employment and regarding the termination of an employment contract. In order to ensure equal pay for women and men, the ZDR-1 stipulates in Article 133 that employers are obliged to pay workers equal amounts for equal work and for work of equal value, regardless of the worker's gender. Provisions in employment contracts and collective agreements or employers' general acts which are contrary to the foregoing are invalid.

Breaches of the provision ensuring the principle of equal pay are sanctioned by Article 6 of the ZDR-1, because a breach of the right to equal pay is also a breach of the general prohibition of discrimination. As per Point 1 of Article 217 of the ZDR-1, an employer (legal entity, sole proprietor or self-employed person) is subject to a fine of between EUR 3,000 and EUR 20,000 if a job seeker or a worker is put in an unequal position, or EUR 1,500 to EUR 8,000 for small employers and EUR 450 to 1,200 for private persons. A fine of between EUR 450 and EUR 2,000 is imposed on the responsible person of an employer who is a legal entity or responsible person in a state authority or local community. In the event of a violation of the prohibition of discrimination, Article 8 of the ZDR-1 explicitly determines the employer's liability for compensation under the general rules of civil law. This provision defines in more detail the general rule of the employer's liability for damages from Article 179 of ZDR-1.

If a worker is of the opinion that the employer has violated the principle of equal pay arising from the employment relationship, they have the right to request in writing that the employer eliminate the violation and fulfil their obligations as per the procedure for enforcing rights prescribed in Article 200 of the ZDR-1. If the employer fails to fulfil their obligations or fails to eliminate the violation within eight working days of being served with the worker's written request, the worker may request judicial protection before the competent labour court within 30 days from the expiry of the time limit stipulated for the employer to fulfil their obligations.

Thus a worker who believes they have been discriminated against regarding pay has the right to judicial protection by means of a lawsuit before the competent labour court. The provision on the reversed burden of proof (paragraph six of Article 6 of the ZDR-1) determines that an employer must demonstrate that the principle of equal treatment or the prohibition of discrimination has not been violated if the worker provides facts in the dispute which justify the assumption that the prohibition of discrimination was so violated. Labour disputes are heard before labour courts which, in comparison to other courts, have certain features adjusted to the content of disputes, i.e. involving a labour relationship, which is usually a relationship between a weaker (worker) and stronger party (employer). Unlike the general rules on judicial proceedings, the **Labour and Social Courts Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 2/04, 10/04 – corr., 45/08 – ZArbit, 45/08 – ZPP-D, 47/10 – Decision of the Constitutional Court, 43/12 – Decision of the Constitutional Court and 10/17 – ZPP-E; hereinafter: ZDSS-1) defines special rules, which observe the principle of *in favorem* of the worker and aim at a prompt hearing with no delays.

The Government of the Republic of Slovenia is of the opinion that judicial protection for workers who are allegedly discriminated against regarding payment is suitably provided for by law, since labour courts are accessible to everyone, including socially disadvantaged individuals, and the rules of operation of labour courts comply with the principle of *in favorem* of the worker. It is not possible to

establish from case law[3] whether the issue of unequal pay for women and men for equal work and for work of equal value is topical in Slovenia, since the courts did not discuss any cases between 2007 and 2016 which could have been instigated on the grounds of gender discrimination regarding payment for equal work and for work of equal value. Because of the lack of case law, the Government of the Republic of Slovenia cannot answer the ECSR questions regarding legal disputes on the ground of equal payment for women and men.

The Government of the Republic of Slovenia underlines that the IRSD found no violations under Article 133 of the ZDR-1 in the reporting period with regard to the obligation of the employer to pay the same amount to all workers, regardless of gender, for the same work and for work of equal value. According to the IRSD's data, no violation of the prohibition of discrimination regarding unequal payment for work for men and women has been recorded.

4§4 Reasonable notice of termination of employment

The Committee concludes that the situation in Slovenia is not in conformity with Article 4§4 of the Charter on the grounds that:

1. *Notice periods are not reasonable for employees with more than three years of service in the following circumstances:*
- *dismissal in companies with ten employees or fewer in accordance with some collective agreements;*
- *receivership or liquidation;*
- *ordinary dismissal for economic reasons;*
2. *No notice period is provided for in the following circumstances:*
- *dismissal on refusal to transfer a contract to a successor employer;*
- *dismissal during probationary periods;*
- *expiry of work permits;*
- *liquidation where no administrator has been appointed.*

The Government of the Republic of Slovenia underlines that the ECSR conclusions refer to the regulation before 2013, when the ZDR-1 was adopted, and in the preparation of the latter, ECSR case law was taken fully into account.

Ad1

In compliance with the new regulation in the **collective agreements, it is no longer possible to set a shorter notice period** if resignation occurs in companies with fewer than 10 employees. Therefore, the notice periods in compliance with the ZDR-1 (Art. 94) apply to everyone.

[3] The case law of the Republic of Slovenia is available at: http://sodnapraksa.si/; by articles of individual acts also at: http://www.pisrs.si/Pis.web/pregledPredpisaSodnaPraksa?id=ZAKO5944&loadAll=true&izbranClen=6.

With regard to **receivership or liquidation**, Article 104 of the ZDR-1 with the following provisions applies:

"(1) In bankruptcy proceedings or in proceedings for compulsory liquidation, the trustee in bankruptcy or liquidator, with a 15-day period of notice, may terminate the employment contracts with employed workers who became redundant due to the initiation of bankruptcy proceedings or compulsory liquidation of the employer.

(2) The trustee in bankruptcy or liquidator, prior to terminating employment contracts with a large number of workers, must fulfil the obligations under the first and third paragraphs of Article 99 of this Act and consult the trade unions referred to in paragraph one of Article 99 of this Act about the possible ways of preventing and limiting the number of employment contract terminations and about the possible measures for preventing and mitigating harmful consequences.

(3) In the event of terminating employment contracts with a larger number of employees, the employer must also fulfil the obligation of notifying the Public Employment Service referred to in the first and second paragraphs of Article 100 of this Act."

In the event of bankruptcy proceedings or proceedings for liquidation, a worker has the right to severance pay in an amount depending on the duration of the employment with the employer (Article 106 in connection with Article 108 of the ZDR-1).

In the event of an **ordinary dismissal by the employer for economic reasons** or reasons of incompetence, the notice period in compliance with paragraph three of Article 94 of the ZDR-1 is:

– 15 days for up to one year of service with the employer,

– 30 days for a period exceeding one year of service with the employer.

After a two-year period of employment with the employer, the 30-day notice period increases for each year of employment with the employer by two days, but does not exceed 60 days. The notice period is 80 days for over 25 years of employment with the employer, unless the branch collective agreement stipulates a different notice period, but not less than 60 days.

Ad2

The Government of the Republic of Slovenia explains that the ZDR-1 also regulates the protection of employees regarding any changes of employers, i.e. also of **legal transfer** (Art. 75 and 76 of the ZDR-1). Article 76 of the ZDR-1 thus stipulates the following:

"(1) The transferor employer and the transferee employer, at least 30 days prior to the transfer, must inform the trade unions at the employer about the following:

– the date or the proposed date of the transfer,

– the reasons for the transfer,

– the legal, economic and social implications of the transfer for workers, and

– the measures envisaged for workers.

(2) The transferor employer and the transferee employer, with the intention of achieving an agreement, must consult the trade unions referred to in the preceding paragraph at least 15 days prior to the transfer about the legal, economic and social implications of the transfer and about the envisaged

measures for workers.
(3) If there is no trade union at the employer, the workers affected by the transfer must be informed in a manner customary at the employer within the deadline and on the circumstances of the transfer, in accordance with paragraph one of this Article."

Furthermore, a worker is protected in compliance with the provisions of Article 75 of the ZDR-1, because in the event of a legal transfer of an undertaking or part of an undertaking, all contractual and other rights and obligations of workers arising from the employment relationships with the employer that existed on the day of transfer are transferred to the transferee employer. If the rights under the employment contract with the transferee employer deteriorate for objective reasons within a period of two years from the date of transfer and the worker's conditions of work with the transferee employer significantly change and the worker therefore terminates the employment contract, **the worker has the same rights as if the employment contract had been terminated by the employer for business reasons.** When stipulating the period of notice, the right to severance pay and all other rights relating to years of service, the worker's period of service with both employers is taken into account.

In the case of **probationary periods,** the ZDR-1 introduces a notice period of seven days if the worker or employer terminates the employment contract due to unsuccessful completion thereof.

Regarding the **lack of a notice period in the case of the expiry of work permits**, the Government of the Republic of Slovenia explains that the ZDR-1 stipulates, *inter alia*, that an employment contract may in certain cases be concluded for a fixed term. One such example is the employment of a foreigner or person without citizenship who is granted a fixed-term work permit, excluding personal work permit. In the case of an early termination of a fixed-term employment contract, the foreign worker has the same rights as a Slovenian citizen based on the reason for termination and the duration of the employment with the employer. The ZDR-1 introduces the right to severance pay in the event of early termination of a fixed-term employment contract, regardless of the duration of the employment with the employer.

With regard to **liquidation when no administrator has been appointed,** the Government of the Republic of Slovenia explains that the relevant applicable legislation – the Companies Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 65/09 – official consolidated text, 33/11, 91/11, 32/12, 57/12, 44/13 – Ruling of the Constitutional Court, 82/13, 55/15 and 15/17; Financial Operations, Insolvency Proceedings and Compulsory Winding-up Act Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 13/14 – official consolidated text, 10/15 – corr., 27/16, 31/16 – Ruling of the Constitutional Court, 38/16 – Ruling of the Constitutional Court and 63/16 – ZD-C) – does not regulate the case of liquidation when no administrator has been appointed. **Liquidation when no administrator has been appointed was a temporary regulation which has not been applicable since 2008.**

4§5 Limits to wage deductions

The Government of the Republic of Slovenia explains that, in compliance with **ZDR-1** (Article 136), an employer may withhold the payment of salary from a worker only in the cases laid down by an Act. Any provisions of an employment contract providing for other ways of withholding payment are null and void. An employer may not offset any claim held against a worker by means of his obligation to pay without the worker's written consent, and the worker may not give consent before the employer makes a claim.

The regulation of the limitation of claim enforcement on cash receipts as applicable in the civil enforcement procedure is stipulated in Article 102 of the **Claim Enforcement and Security Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 3/07 – official consolidated text, 93/07, 37/08 – ZST-1, 45/08 – ZArbit, 28/09, 51/10, 26/11, 17/13 – Ruling of the Constitutional Court, 45/14 – Ruling of the Constitutional Court, 53/14, 58/14 – Ruling of the Constitutional Court, 54/15 in 76/15 – Ruling of the Constitutional Court):

"The debtor's cash receipts, which, in compliance with the act governing income taxes, are considered income from an employment relationship, and the compensation from loss or decreased work capacity may be used:

1. for receivables excluding those listed under point 2 of this paragraph, to two thirds of receivables which are used by means of an enforcement; **however, at least 76% of the minimum wage** must remain with the debtor; if the debtor is liable to support a family member or any other person, the remaining amount increases for an amount stipulated for the person supported by the debtor under the criteria laid down in the act governing social assistance payments for the allocation of financial social assistance;
2. for receivables from statutory maintenance and compensation for lost maintenance because of the death of the person providing it, up to two thirds of receipts used through claim enforcement; however, the debtor must be left with at least 50% of the minimum wage; if the debtor is liable to support a family member or any other person, the remaining amount increases for an amount stipulated for the person supported by the debtor under the criteria laid down in the act governing social assistance payments for the allocation of financial social assistance."

If the employer fails to comply with the prescribed limitation on the enforcement of claims and interferes disproportionately with the worker's cash receipts, the worker **can enforce** a claim against his/her employer **directly before the competent labour court**.

Tax Procedure Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 13/11 – official consolidated text, 32/12, 94/12, 101/13 – ZDavNepr, 111/13, 25/14 – ZFU, 40/14 – ZIN-B, 90/14, 91/15 and 63/16; hereinafter: ZDavP-2) governs the enforcement proceedings for the recovery of tax liabilities and other cash non-tax liabilities (fines, receivables from administrative fees, receivables

from minor offences, etc.), which the tax authority recovers on the proposal of other authorities. The subject of enforcement may also include the cash receipts of the debtor if they are not exempt from enforcement proceedings by law (e.g. receipts from financial social assistance, statutory maintenance, etc.) or if the enforcement proceedings are restricted to them. In line with the constraint in Article 160 of the ZDavP-2, the debtor's cash receipts, which, in accordance with the act governing income taxes, are considered employment income, may be recovered through tax enforcement to a maximum of two thirds; however, at least of 76% the minimum wage under the act governing minimum wage must remain with the debtor. The minimum amount which must remain with the debtor after enforcement proceedings (76% of minimum wage) is increased if the debtor maintains a family member or another person which they must maintain under the law, namely in the amount of the receipt stipulated for the person maintained by the debtor and under the criteria specified in the act governing social assistance payments for the allocation of financial social assistance. The debtor may exercise his/her entitlement to a higher limit due to maintenance obligations before the entity enforcing an enforcement order by means of a legal document (e.g. decision on child benefit, decision on financial social assistance, etc.). If entitlement to a higher limit is demonstrated, the enforcer of the order ensures that the debtor is left with the amount of the receipt designated for the person maintained by the debtor under the criteria for the allocation of financial social assistance, as stipulated by the act governing social assistance payments. The aforementioned rules on the limitation on the tax enforcement procedure also apply to cash receipts of sole traders and individuals who are self-employed. The debtor's cash receipts may be recovered taking into account the limitations for the current month. If during the current month the debtor obtains receipts for several previous months, the enforcer of the enforcement order takes into account the limits for each individual month.

With regard to the ECSR request for examples of limits on wage deductions, there are informative calculations below of the amounts which must be left to an individual after enforcement. The amount depends on the type of the debtor's household.

Table 6: Informative calculations of the amounts (in EU) which must be left to a debtor after enforcement based on the type of their household, 2013–2016

	2013	2014	2015	2016
Single person	596	600	601	601
Two adult persons, one unemployed without income	729	735	737	768
A family of four (two adults, one of them unemployed and without income, two school children)	1174	1187	1192	1261
Single-parent family (two school children without receipts from the	1086	1097	1102	1143

second parent)				

Source: Ministry of Labour, Family and Social Affairs (gross minimum wage, basic minimum income), Social Assistance Payments Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 61/10, 40/11, 14/13, 99/13, 90/15 and 88/16), own calculations.

Article 5: The right to organise

The Government of the Republic of Slovenia underlines that the right to organise is properly regulated in Slovenian legislation and harmonised with international commitments.

The field of trade union activities is already regulated in the Constitution of the Republic of Slovenia with Article 76, which stipulates that the freedom to establish, operate, and join trade unions must be guaranteed. Regarding the competence of the court, the Constitutional Court Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 64/07 – official consolidated text and 109/12) stipulates that the Constitutional Court decides, among other things, on constitutional complaints due to violations of human rights and fundamental freedoms by individual laws. Thus legal protection of trade-union freedom guaranteed by the Constitution is provided at the highest level.

The obligations of the employer regarding the implementation of the right to organise stem from the ZDR-1, which also governs legal protection before the court of competent jurisdiction for labour disputes and appropriate sanctions.

The Republic of Slovenia emphasises that the ZDR-1 prohibits any unequal treatment in respect of personal circumstances (including union membership) referred to in the preceding paragraph for candidates and workers, "especially in **obtaining employment, promotion**, training, education, retraining, pay and other benefits from the employment relationship, absence from work, working conditions, working hours and terminations of employment contracts (paragraph two of Article 6 of ZDR-1)." If employers put job seekers or workers in an unequal position (*inter alia* also because of their membership of a trade union), they may be punished in compliance with Article 217 of the ZDR-1 by a fine of EUR 3,000 to EUR 20,000.

We hereby add that the ZDR-1 determines the competence of a minor offence authority to impose fines within a certain range, and under the previously applicable ZDR, the minor offence authority could impose only the lowest prescribed fine; consequently, fines may now be higher in practise.

A violation of trade union rights is defined as a criminal offence with respect to the employment relationship and social security. Paragraph two of Article 200 of the Criminal Code (Official Gazette of the Republic of Slovenia [*Uradni list RS*] Nos 50/12 – official consolidated text, 6/16 – corr., 54/15, 38/16 and 27/17) stipulates that whoever breaches regulations and general acts by preventing employees or hindering them from exercising free association and carrying out union activities, or obstructs the implementation of union rights, or takes over a union shall be punished by a fine or sentenced to imprisonment for not more than one year.

Article 6: The right to bargain collectively

6§1 Joint consultation

The Government of the Republic of Slovenia informs the ECSR that the ZDR-1 introduces novelties in the field of mutual consultation, because it introduces the obligation of employers to consult the works council and/or worker representative (and no longer only trade unions).

If no trade union is organised at the employer, the employer's general acts may lay down rights which, pursuant to the ZDR-1, may be regulated in collective agreements if they are more favourable to a worker than those laid down in an act and/or collective agreement which is binding on the employer, whereby the proposed general acts must be submitted to the works council and/or the worker representative to obtain their opinion, or if this representative body does not exist, the employer must inform the workers of the content of the proposed general acts (Article 10 of the ZDR-1).

6§2 Negotiation procedures

Representativeness of trade unions

With regard to the issue of trade union representativeness, the Government of the Republic of Slovenia explains that this area is governed by the **Representativeness of Trade Unions Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 13/93) (hereinafter: ZRSin), which has not changed in the reporting period. ZRSin lays down the manner in which a trade union can acquire the characteristics of a legal entity and the manner and conditions to acquire the characteristics of a representative trade union. Regarding the acquisition of the characteristics of a representative trade union, the ZRSin divides conditions for obtaining the characteristics of representative unions or confederations of trade unions, independent trade unions in individual activities or occupations and trade unions at the employer.

The ZRSin first lays down **the general conditions for the acquisition of the characteristics of a representative** trade union, which apply to all cases, namely the trade union must prove:

- the democratic nature and actualisation of the freedom to join a trade union, of the operation and of the realisation of membership rights and obligations,
- continuity of operation for a minimum of the last six months,
- independence from national authorities and employers,
- funding from membership fees and other own sources, and
- a certain number of members, which is demonstrated on the basis of a signed declaration of membership of their members.

In case of a union or a confederation of trade unions, it is necessary to demonstrate that it associates trade unions from different branches or occupations and that each associated trade union has at least 10% of workers from individual activities or occupations for which the union or confederation wishes to obtain representativeness. In the case of an independent trade union within a branch or occupation or an independent union at an employer, the percentage amounts to a little higher, 15%.

The decision on the representativeness of unions or confederations of trade unions and individual trade unions in a branch or occupation is issued by the minister competent for labour and the decision on the representativeness of a trade union organised at an employer is adopted by the employer.

In compliance with the Constitution of the Republic of Slovenia, the establishment and operation of trade unions as well as enrolment in them is free. Workers may also freely decide on the establishment of trade unions at the level of an employer.

If no trade union is organised at the employer/company, the employer's general acts may lay down rights which, pursuant to the ZDR-1, may be regulated in collective agreements if they are more favourable to a worker than those laid down in an act and/or the collective agreement which is binding on the employer, whereby the proposed general acts must be submitted to the works council and/or the worker representative to obtain their opinion, or if this representative body does not exist, the employer must inform the workers of the content of the proposed general acts (Article 10 of the ZDR-1).

Extension of the validity of collective agreements

With regard to question of the ECSR on the procedure for the extension of validity of collective agreements, the Government of the Republic of Slovenia explains that the **Collective Agreements Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 43/06 – ZKolP, 45/08 ZArbit) (hereinafter: ZKolP) also envisages the possibility of acquiring the characteristic of extended validity for collective agreements of one or several branches. If a collective agreement of one or several branches acquires this characteristic, it means that it applies to all employers and their employees in a certain branch, regardless of the membership of workers in the trade union or the membership of the employers in an employers' association which signed the collective agreement.

Taking into account Article 12 of the ZKolP, the minister competent for labour may extend the validity of an entire collective agreement, or part of it, of one or several branches at the proposal of one of the contractual parties if the collective agreement was concluded by one or several representative trade unions and one or several representative employers' associations, the members of which employ more than half of all the workers with employers for which the extension of validity of the collective agreement is proposed. In the decision to extend the validity of the entire, or a part of the, collective agreement the minister is bound by the proposal made by the proposer.

At present, **28 collective agreements apply in the private sector,** 15 of which have extended validity, which means that they apply to all employers and their employees, regardless of the membership of employers in the employers' associations which signed the specific collective agreement of any given branch. In fact, all the collective agreements of branches in the public sector (there are 17 at the moment) have extended validity, as they were concluded by the Government of the Republic of Slovenia or the competent ministry on the employer's side.

According to the data[4] of the European Foundation for the Improvement of Living and Working Conditions, coverage with collective agreements in the private sector in Slovenia is declining (from 92% in 2010 to 78% in 2013 – last data). According to the Ministry of Labour, Family, Social Affairs and Equal Opportunities, the same coverage in the public sector is 100%.

6§3 Conciliation and voluntary arbitration for the settlement of labour disputes

The Government of the Republic of Slovenia explains that in the reporting period there have been no legislative amendments and that, based on the request of the ECSR, the existing regulation is described hereinafter.

The applicable **Collective Agreements Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 43/06 – ZKolP, 45/08 ZArbit) in the context of its provisions comprehensively and precisely regulates the issue of the peaceful settlement of collective labour disputes (Articles 18 – 24). In compliance with the provisions of the ZKolP, collective labour disputes are settled peacefully by negotiation, mediation and arbitration, and in accordance with the Labour and Social Courts Act before the competent labour court. Collective labour disputes are settled in accordance with this act if a procedure for dispute settlement has not been determined in the collective agreement.

A collective interest dispute which is a consequence of the different interests of the parties (hereinafter referred to as: **interest dispute**) occurs when the parties fail to agree on individual questions regarding the conclusion, amendment or supplementation of a collective agreement. Procedures for the peaceful settlement of an interest dispute through mediation or arbitration are begun when one of the parties, no sooner than six weeks or later than three months from the day when a proposal for the

[4] Source: https://www.eurofound.europa.eu/country/slovenia#collective-bargaining.

conclusion, amendment or supplementation of the collective agreement is submitted, states in written form that negotiations have been unsuccessful. Each party may propose, with the written consent of the other party, that an interest dispute should be mediated by an expert appointed by the minister responsible for labour. A party proposes the mediation to the minister responsible for labour with a written proposal which must contain a description of outstanding issues and the other party's written consent to the settlement of the dispute by mediation. The proposal may also contain the name of the expert. If the consent of both parties to the settlement of an interest dispute with mediation is not reached, or if a dispute is not settled by mediation, the parties may agree that the interest dispute be settled by arbitration. In this case, the parties determine individual outstanding issues and deadlines for settling them, and agree that the decision of the arbitration will be respected. An arbitration award becomes a part of the collective agreement and is published in the same manner as the collective agreement. If the parties agree that an interest dispute should be settled by mediation or arbitration, they have to refrain from exerting any form of pressure for their demands – because of which the dispute occurred – to be met, unless otherwise agreed between the parties.

A collective labour dispute about rights (hereinafter referred to as: **dispute on rights**) arises when the parties do not agree with the manner of implementing the provisions of a collective agreement in force, or when one party believes the agreement has been breached. Procedures for peacefully settling disputes about rights begin when the party that believes that the collective agreement has been violated or incorrectly implemented sends to the other party a written proposal for negotiations, together with explanations. If a dispute about rights cannot be settled by negotiation, either party may propose, with the written consent of the other party, that the dispute be mediated by an expert appointed by the minister responsible for labour. A party proposes the mediation to the minister responsible for labour with a written proposal which must contain a description of outstanding issues and the other party's written consent to the settlement of the dispute by mediation. The proposal may also contain the name of the expert. If the consent of both parties on the settlement of dispute on rights with mediation is not obtained or if a dispute is not settled by mediation, the parties may agree to have the dispute about rights settled by arbitration. In this case, the parties determine individual outstanding issues and deadlines for settling them, and agree that the decision of the arbitration will be respected. The arbitration award is published in the same manner as the collective agreement. If a dispute about rights has been settled by negotiation, mediation or arbitration, the parties should also specify a time limit within which a party has to comply with the decision. An arbitration award applies to all parties to which the collective agreement applies. If the parties agree that a dispute about rights should be settled by mediation or arbitration, they have to refrain from exerting any form of pressure for their demands, because of which the dispute occurred, to be met, unless otherwise agreed between the parties.

The minister responsible for labour determines the list of experts from which experts are appointed for mediation in an individual case on a proposal from a representative association of trade unions or employers.

Each party appoints an equal number of members (hereinafter referred to as: members) to arbitration. The president of the arbitration is appointed by the parties by common consent. As part of a collective agreement, the parties may agree on the establishment of permanent arbitration, on the number of its members and procedures before the arbitration. If permanent arbitration is established, the parties determine a list of arbitrators, who participate in individual arbitration procedures. Each time an arbitration procedure is initiated, the parties appoint their arbitrators from this list, from which the president of arbitration is also appointed by common consent. On a proposal from a representative association of trade unions and employers, the minister responsible for labour determines a list of arbitrators from which arbitrators are appointed when permanent arbitration is not established.

A party proposes the introduction of arbitration procedures together with the appointment of arbitrators by means of a written proposal sent to the other party to the collective agreement. The latter party may answer the proposal and appoint his or her arbitrators within eight days of receiving the proposal. If the parties fail to agree on the appointment of the president of arbitration, they may propose that the president be appointed by a court competent for labour disputes from the list of arbitrators.

The provisions of the Labour and Social Courts Act related to collective labour disputes shall reasonably be applied in arbitration procedures, unless otherwise agreed between the parties.

The Ministry of Labour, Family, Social Affairs and Equal Opportunities does not dispose of data on the number of successful or unsuccessful negotiations, mediations and arbitrations, because trade unions and employers are not obliged to inform the Ministry of this.

6§4 Collective action

The Government of the Republic of Slovenia explains once again that it does not dispose of statistical data on strikes in the private sector because employers do not report them. Namely, in compliance with the Labour and Social Security Registers Act (ZEPDSV, Official Gazette of the Republic of Slovenia [*Uradni list RS*] 40/2006 of 14 April 2006) any employer where a strike takes place (or arbitration of a labour dispute) should submit the information to the Statistical Office of the Republic of Slovenia (hereinafter: SURS) as the authorised research contractor. Since the SURS does not receive any information from employers, they cannot process it. According to the Ministry of Public Administration, three strikes took place in the public sector in the reporting period (2013 – police officers, 2016 – police officers and physicians).

Information on strikes and the use of restrictive provisions on the right to strike in the public sector

In accordance with Article 77 of the Constitution of the Republic of Slovenia (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47,

68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99 in 75/16 – UZ70a) employees have the right to strike. Where required by the public interest, the right to strike may be limited by an act, with due consideration given to the type and nature of activity involved. The Strike Act (Official Gazette of the SFRY, No. 23/91) lays down the conditions for limiting the right to strike and the requirement to implement a minimum working process during a strike. Article 19 of the Public Employees Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 63/07 – official consolidated text, 65/08, 69/08 – ZTFI-A, 69/08 – ZZavar-E and 40/12 – ZUJF) stipulates that **public employees have the right to strike and that the manner in which the right to strike is exercised and restrictions on strikes in the interest of public benefit is governed by law.**

Officials in the public sector who have a limited right to strike are employed in branches which are particularly sensitive in terms of the public interest exercised and/or exercise of power, such as: **the police, the armed forces, enforcement of criminal sanctions, financial administration, health care, administration of justice, veterinary medicine and protection and rescue.**

Public employees employed in the aforementioned branches must ensure a work process which provides for the safety of people and property. The manner of exercising the right to strike and the tasks which must also be performed during a strike are laid down by means of sector-specific laws and/or regulations as presented hereinafter.

Police officials

Under the **Organisation and Work of the Police Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 15/13, 11/14, 86/15 and 77/16) police officers must perform the following police tasks during a strike:

– protect people's lives, personal safety and property;
– prevent, detect and investigate criminal offences;
– detect and apprehend criminal offenders and other wanted persons, and hand them over to the competent authorities;
– protect particular individuals, bodies, buildings, premises and the environs of state bodies;
– maintain public order;
– control and direct traffic on public roads;
– conduct state border control;
– perform tasks defined by the regulations on aliens.

Police officers shall perform the tasks referred to in paragraph 2 of Article 76 in a timely and efficient manner, and according to the instructions given by their superiors.

More detailed work and tasks which must be performed during a strike are laid down in the Regulation on performing specific jobs and tasks which must be carried out within the Ministry of the Interior during a strike (No. 1010-5/2015/27 of 17 November 2015).

Officials of the armed forces authorities

The Defence Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 103/04 – official consolidated text and 95/15; hereinafter: ZObr) governs the right to strike in Article 99, which lays down the following:

"(1) While performing a military service, military personnel has no right to strike.

(2) Workers who perform managerial and professional tasks in the field of defence exercise their right to strike under the conditions laid down in the Public Employees Act.

(3) In addition to the conditions as per the preceding paragraph, workers must ensure during a strike:

- undisturbed performance of military and other tasks related to the exercise of the fundamental obligations of citizens, companies, institutions and other organisations in the defence sector;
- undisturbed performance of civil defence tasks;
- continuous readiness to implement measures for preparedness;
- continuous operation of emergency services, information and telecommunications systems;
- smooth and continuous provision of all matters and tasks related to the supply of materials and health care to the armed forces, maintenance of assets, facilities and equipment, transport and storage for military needs;
- smooth and continuous implementation of obligations assumed with international treaties in the military field or in relation to defence activities.

(4) Military personnel and workers who deal with administrative and professional matters in the defence sector have no right to strike if there is an increased risk of an attack on the state or if there is an imminent threat of war or if there is a state of emergency or a state of war until such state is ends. The prohibition on strikes also applies to other circumstances if the safety and defence of the state are threatened and such circumstances are established by the government.

(5) To evaluate the restrictions stemming from this article, the Government shall lay down the increase in the basic wage for workers referred to in this Article."

Officials of the authorities for the execution of criminal sanctions

Pursuant to Article 17 of the **Enforcement of Criminal Sanctions Act** (Official gazette of the Republic of Slovenia [*Uradni list RS*], Nos 110/06 – official consolidated text, 76/08, 40/09, 9/11 – ZP-1G, 96/12 – ZPIZ-2, 109/12 and 54/15), during a strike, the employees of the administration must perform all the work and tasks which ensure the safety and smooth operation of the administration, and prison officers must also accompany and protect detained persons subject to a court order.

Officials of the financial administration

Pursuant to Article 90 **of the Financial Administration Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 25/14), the right of employees of the financial administration to strike is restricted by doing urgent work and tasks of the financial administration and support tasks linked to these if their non-performance could threaten the financial stability, goods traffic and fulfilment of international obligations of the Republic of Slovenia. A detailed volume of duties and how to carry the out during a strike is agreed between the head official and the strike committee by means of a written agreement. If there is no agreement, the superior official determines by means of a general measure, considering the right of workers to strike, which urgent tasks and work the financial administration must perform during a strike in order not to threaten the financial stability, goods traffic and fulfilment of the international obligations of the Republic of Slovenia.

Employees in veterinary practice

Pursuant to Article 56 of the **Veterinary Practice Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 33/01, 45/04 – ZdZPKG, 62/04 – Ruling of the Constitutional Court, 93/05 – ZVMS and 90/12 – ZdZPVHVVR), veterinarians must provide emergency veterinary assistance and animal care. A veterinarian may not refuse to provide emergency veterinary assistance. Pursuant to Article 82 of the Veterinary Compliance Criteria Act, the Veterinary Administration must ensure the performance of emergency measures in the event of certain disease outbreaks in animals and emergency measures for the protection of animals.

Employees in medical practice

Pursuant to Article 52 of the **Medical Practitioners Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 72/06 – official consolidated text, 15/08 – ZPacP, 58/08, 107/10 – ZPPKZ, 40/12 – ZUJF, 88/16 – ZdZPZD and 40/17), a medical practitioner is obliged to perform those medical services the omission of which would lead to irreversible damage to health or to death in a short period of time. They shall include particularly:

- treatment of fever-related states and infections;
- treatment of injuries and poisonings;
- treatment of chronic diseases if their omission could directly and promptly result in the worsening of health, disability, other permanent damage to health or in death;
- other services of emergency medical assistance;
- initial examinations without a waiting period at least to the extent which confirms or excludes the conditions referred to in the preceding indents (triage);
- the prescription of medicinal products and medical devices to treat the conditions referred to in the preceding indents.

An initial examination shall comprise a preliminary examination in primary health care, and the first referral to a specialist for a new disease or condition or due to a worsening of the disease in secondary and tertiary health care. In addition, a medical practitioner is obliged to provide the following services during a strike:

- all health services for children younger than 18 and patients older than 65;
- all health services in relation to pregnancy and delivery;
- measures to prevent and control infectious diseases.

Employees of the judiciary

Pursuant to Article 8 of the **Courts Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 94/07 – official consolidated text, 45/08, 96/09, 86/10 – ZJNepS, 33/11, 75/12 – ZSPDSLS-A, 63/13, 17/15 and 23/17 – ZSSve) the right of judicial staff to strike is restricted. During a strike, judicial staff are obliged to perform their work within the scheduled hearings, main hearings or open sessions and to ensure that all decisions are issued or withdrawn within statutory deadlines. In procedures which the law stipulates must be expedited or in matters that are urgent under an act or by their character, staff are obliged to work even during a strike.

Employees in civil protection

Based on Article 108 of the **Protection against Natural and Other Disasters Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 51/06 – official consolidated text and 97/10) in the course of a strike, public employees in the field of civil protection are required to ensure:

- continuous operation of the monitoring, notification and warning siren system and the electronic communications system;
- continuous performance of operational and technical tasks in order to ensure the operation of Civil Protection commanders and headquarters or of other protection, rescue and relief management authorities.

In the course of a natural or other disaster or where an increased risk of the occurrence of a natural or other disaster is declared, the workers referred to in the preceding paragraph may not exercise the right to strike.

Pursuant to Article 15 of **the Act Amending the Fire Service Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 28/00), employees of a professional firefighting unit may organise and conduct a strike in a manner stipulated in the general regulations; however, on the condition that some of the firefighters remain on a standby for fire watch and interventions in the event of a fire or a natural or other disaster. In the event of an increased risk of fire or other disaster or if a fire or a natural or another disaster starts during a strike, professional fire-fighters must immediately discontinue the

strike. The strike may continue when the fire is extinguished or when the consequences of an accident are remedied and the unit returns to standby.

Article 21: The right to information and consultation

The Government of the Republic of Slovenia informs the ECSR that in the reporting period the **Worker Participation in Management Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 42/07 – official consolidated text, and 45/08 – ZArbit) (hereinafter: ZSDU) has not been amended. According to the IRSD a **total of 33 violations of the ZSDU** were found in the reporting period:

- in 2013, inspectors found 2 violations concerning the obligation of the employer to reply to a worker's initiative and questions and thus enable him/her to participate in management;
- in 2014, inspectors found 16 violations of the ZSDU, 7 of which concerned violations in relation to notification and joint consultation with regard to status and personnel issues, 4 in relation to the working methods of the works council, while the remainder concerned individual violations of other provisions of this Act;
- in 2015, inspectors found 12 violations of the ZSDU, 10 of which concerned notification and joint consultation with regard to status and personnel issues; the other 2 concerned the enforcement of a decision by an employer before a final decision of a competent authority on the right of the works council to suspend the employer's decision;
- in 2016, inspectors found a total of 5 violations of the ZSDU, 3 of which concerned notification and joint consultation with regard to status and personnel issues and 2 violations concerning the submission of a proposal of a decision by an employer to the works council with regard to the criteria for assessing workers' performance.

All the violations were sanctioned in compliance with the ZSDU.

Article 22: The right to take part in the determination and improvement of the working conditions and working environment

Working conditions, organisation of work and working environment

With regard to the question of the ECSR on the participation of workers in determining and improving working conditions and the working environment, the Government of the Republic of Slovenia explains that the **ZDR-1** maintains two types of employers' general acts: 1) general acts in which the employer lays down the organisation of work and more specifically the responsibilities of workers (paragraphs one and two of Article 10) and 2) general acts, with which the employer may exceptionally regulate the rights of workers (paragraphs three, four and five of Article 10). The employer is obliged to submit organisational general acts to the trade unions active at the employer to obtain their opinion. **The**

rights of workers (which pursuant to paragraph two of Article 9 of the ZDR-1 are usually regulated by means of collective agreements) may be regulated by the employer unilaterally by means of a general act only if no trade union is organised at the employer and **in such a way that the rights of workers are regulated in a more favourable manner than in an act or in collective agreements binding on the employer**.

Even if there are elected worker representatives (works council or worker representative), they may not act in place of trade unions in concluding corporate collective agreements. Pursuant to the Collective Agreements Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 43/06 – ZKolP, 45/08 ZArbit), only trade unions are competent to conclude collective agreements on behalf of workers. In order to comply with the principle of equality before the law, the amended Article 10 of the ZDR-1 in accordance with the decision of the Constitutional Court of the Republic of Slovenia, provides workers employed by an employer without a trade union with the possibility of taking part through their directly elected worker representatives in the adoption of general acts governing workers' rights. Prior to the adoption of such a general act, an employer must submit the proposed general act to the works council and/or the worker representative to obtain their opinion. The works council and/or the worker representative must submit their opinion within eight days, and the employer must examine and take a relevant position on the submitted opinion prior to adopting the general act. If no trade union or works council or worker representative is organised at the employer, the employer must inform the workers of the content of the proposed general acts prior to adopting general acts.

Health and Safety at Work

Pursuant to Article 45 of the **Occupational Health and Safety Act** (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 43/11; hereinafter: ZVZD-1), employers must allow workers to take part in discussions on all questions relating to health and safety at work. Workers enforce the right directly through their representatives on the workers' council, in accordance with the regulations governing workers' participation in management or through a workers' representative for health and safety at work. Regulations governing workers' participation in managing apply to the election of a health and safety representative.

Furthermore, Article 46 of the ZVZD-1 stipulates that employers must consult workers or their representatives on the risk assessment as well as on any measures which might affect health and safety at work, on the designation of a safety officer, occupational medicine practitioner, workers designated for first aid, workers or persons authorised under specific regulations governing fire safety and evacuation, and providing information to workers and the organisation of training. Employers must, in the usual manner, present to workers' representatives and trade unions organised in their undertaking the safety statement and risk assessment document and documents on accidents at work kept by employers in accordance with the regulations. If there are no elected worker's representatives

and organised trade unions in the employer's undertaking, the employer must publish the documents referred to in the preceding paragraph in the usual manner.

Pursuant to Article 47 of the ZVZD-1, health and safety representatives must be allowed the mode of work and rights that apply to a works council. Workers and their representatives may not be placed at a disadvantage because they exercise rights under the Act.

Article 48 of the ZVZD-1 governs the rights and obligations of the works council or health and safety representative. The works council or health and safety representative may demand that an employer adopt appropriate measures and draw up proposals to eliminate or mitigate occupational health and safety risks. Workers or their health and safety representatives may request an inspection by the competent inspection service if they consider that the safety measures taken by the employer are inadequate. The works council representative or health and safety representative have the right to be present at any inspection that involves inspection of the protection of health and safety at work, and the right to submit observations. The employer must inform the works council or health and safety representative and trade unions in the undertaking of findings, proposals or measures imposed by supervisory authorities. The employer must ensure that works council members or the health and safety representative receive adequate training to carry out their tasks. Every worker has the right and obligation to be aware of health and safety protection measures and to be trained for their implementation. Workers have the right to make proposals, comments and provide information concerning occupational health and safety.

With regard to workers' and/or their representatives' participation in determining and improving working conditions and the working environment, the competent IRSD inspectors found 164 violations in 2013; in 2014, they found 149 such violations; in 2015, there were slightly more compared to the other years, i.e. 197, and in 2016, there were 177 violations.

Article 26: The right to dignity at work

26§1 and 26§2 Sexual and moral harassment in workplaces

The Government of the Republic of Slovenia explains that the **ZDR-1** (the same as the preceding Act which governed employment relationships) prohibits sexual and other forms of harassment and workplace bullying (Article 7) and determines the employer's liability for damages (Article 8). However, paragraph two of Article 47 lays down a new obligation to inform workers of measures taken to protect workers from sexual and other harassment or from bullying in the workplace.

Furthermore, the legislator underlined through the provision of Article 24 of the ZVZD-1 that the provision of worker's health and safety also includes the prevention, elimination and management of

violence, bullying, harassment and other forms of psychosocial risks in the workplace. Sexual harassment is a form of undesired verbal, non-verbal or physical action or behaviour of a sexual nature that presents a risk in the working environment. The fundamental tool of an employer is a risk assessment, which must also include a risk assessment of exposure to psychosocial risk factors of any type of violence, bullying and harassment and the decision to introduce measures to reduce risks.

The employer must also plan procedures for cases of violence in the workplace where there is an increased risk of violence by third persons. Pursuant to Article 23 of the ZVZD-1, an employer must ensure a workplace design and equipment that reduces the risk of violence and allows assistance to be provided in the workplace under threat. The employer must inform employees who work in such a workplace of the measures. The inclusion of the employer's obligations in this field in the ZVZD-1 allows labour inspectors to perform administrative control and to take action by issuing regulatory decisions in an administrative procedure. Failure to meet these requirements is punishable by a fine from EUR 2,000 to EUR 40,000.

The Government of the Republic of Slovenia explains that the IRSD does not statistically process the data in a manner that enables violations to be reported by individual forms of harassment in the workplace. Thus the information presented hereinafter includes all forms of harassment and bullying in the workplace, as they are arranged in the legal concept of the prohibition of sexual and other harassment and bullying in the workplace (ZDR-1), of the protection of worker's dignity at work (ZDR-1) and the legal concept covering violence, bullying, harassment and psychological risk at work (ZVZD-1).

Table 7: Number of violations found under the above-listed legal concepts, 2013–2016

	2013	2014	2015	2016
Prohibition of sexual and other harassment and bullying in the workplace (ZDR-1)	N/A	/	3	/
Protection of worker's dignity at work (ZDR-1):	123	352	294	300
- Adoption of measures to protect workers	96	195	168	179
- Informing workers of measures adopted	27	157	126	121
Adoption of measures to prevent, eliminate and manage violence, bullying, harassment and psychological risk at work (ZVZD-	459	308	293	286

1).				

Source: IRSD.

Along with the legislative framework, the Government of the Republic of Slovenia prepared in the reporting period a series of **preventive measures to reduce psychosocial risks**, which include harassment in the workplace; these especially include organising conferences, workshops, seminars and other forms of raising public awareness in the framework of biannual European campaigns for Healthy Work Environment and various national projects (more on the activities: http://www.mddsz.gov.si/si/delovna_podrocja/delovna_razmerja_in_pravice_iz_dela/varnost_in_zdravje_pri_delu/info_tocka_focal_point/).

With regard to the question of the ECSR on the reinstatement of a victim of sexual harassment, the Government of the Republic of Slovenia explains that the ZDR-1 introduces the following amendment (Article 118 – Termination of employment contract on the basis of a court judgement):

"(1) Where a court has established that the termination of an employment contract is illegal, but that with regard to the circumstances and the interests of both contracting parties the continuation of the employment relationship would no longer be possible, on the proposal of the worker or employer, the court may establish the duration of the employment relationship, but for no longer than until the court of first instance makes a decision, recognise the worker's years of service and other rights under the employment relationship, and grant the worker adequate compensation in the maximum amount of 18 monthly salaries of the worker as paid in the three months immediately prior to the termination of the employment contract.
(2) The court shall determine the amount of compensation with regard to the duration of the worker's employment, the worker's prospects for new employment and the circumstances that led to the illegality of the termination of the employment contract, taking into consideration the rights exercised by the worker for the period until the termination of the employment relationship.
(3) The worker or the employer may enforce the proposal referred to in paragraph one of this Article until the end of the main hearing before the court of first instance.
(4) The court shall also fix the date of termination of the employment relationship in cases when one of the contracting parties challenges the employment contract and the court establishes that the contract is invalid."

Article 28: The right of workers' representatives to protection in the undertaking and facilities to be accorded to them

The Government of the Republic of Slovenia informs the ECSR that Article 112 of the new ZDR-1 stipulates more clearly the competence to consent prior to the termination of an employment contract of a member of a works council, a worker representative, a member of a supervisory board representing workers and a workers' delegate on the council of the institution (works council or if there

is no works council, then the workers who actually elected these representatives). It is also more clearly determined that the termination of employment contracts of workers' representatives is possible without prior consent only if a workers' representative rejects the offered appropriate employment with the employer in case of termination for a business reason, which means that prior consent to terminating employment contracts of workers' representatives is not excluded upon the offer of new employment with another employer. The provisions on the protection of trade union representatives (Article 207 of the ZDR-1, previously Article 210 of the ZDR) did not change with the new ZDR-1.

According to the IRSD, no violations in relation to special legal protection against the termination of an employment contract of the worker's representatives (a member of the works council, a workers' representative, a member of a supervisory board representing workers, a workers' delegate on the council of the institution or an appointed or elected trade union representative).

Article 29: The right to information and consultation in collective redundancy procedures

The Government of the Republic of Slovenia informs the ECSR that with the new ZDR-1 the obligation to inform and consult in collective redundancies has not been changed (the wording of Article 99 of the ZDR-1 is the same as in Article 97 of the ZDR). In relation to the question of the ECSR, the Government of the Republic of Slovenia explains the existing regulation below.

The employer must consult trade unions about the proposed criteria for selecting workers to be made redundant and measures to mitigate unemployment. The employer must consult; however, it is not important whether the position of trade unions is taken into account or not. In the consultation process, employers must strive to reconcile their positions as much as possible and to reach an agreement with the trade union. Nonetheless, the final decision is the employers alone. The employer may also consult the works council, the workers' delegates or the workers. Proof of the employer informing the trade union before the submission of the termination of an employment contract and consulting the trade union in order to reach an agreement must be sent to the Employment Service of Slovenia (hereinafter: ZRSZ). The ZRSZ is entitled to give obligatory instructions and recommendations which the employer is obliged to take into account. These instructions concern measures to prevent or limit the termination of employment, as well as measures to limit adverse consequences. The proposals of the ZRSZ must be considered and taken into account by the ZRSZ. Another role of the ZRSZ is that it may extend the grace period on dismissals or termination of employment contracts (Article 100 of the ZDR-1). If an employer performs the procedure for terminating employment contract of several employees for business reasons contrary to Article 99 and Article 100 of the ZDR-1, the violation is punishable by a fine from EUR 3,000 to 20,000.

Table 8: Number of violations of Article 99 and Article 100 of the ZDR-1, 2013–2016

	2013*	2014	2015	2016

Number of violations	2	/	1	3

Note: Before the implementation of the ZDR-1, the content of the present Article 100 was in Article 98 of the Employment Relationship Act.