

Activity Report 2015



European Committee of Social Rights



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Activity Report 2015

**European Committee
of Social Rights**

The European Committee of Social Rights rules on the conformity of the situation in States with the European Social Charter.

The Committee adopts “conclusions” in respect of national reports submitted annually by the States Parties, and it adopts “decisions” in respect of collective complaints lodged by the organisations.

The Committee is composed of 15 independent, impartial members who are elected by the Committee of Ministers of the Council of Europe for a term of office of six years, renewable once.

European Social Charter Department
social.charter@coe.int

Council of Europe
Directorate General of Human Rights and
Rule of Law

F – 67075 Strasbourg Cedex

Tel. +33 (0)3 90 21 49 61

www.coe.int/socialcharter

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Introduction

by Giuseppe Palmisano, President of the European Committee of Social Rights

A year of challenges, changes and innovations

2 015 has been a difficult and challenging year for the protection of social rights in Europe.

Terrorist attacks and violence in Paris and elsewhere in Europe, and the social background of the perpetrators, clearly show that violent extremism and attacks against the life of European citizens and against democracy and European civilization, do not come from outside of Europe but from within. They are generated from and feed on poverty, social exclusion and frustration: they are possible when and where individuals and groups cannot enjoy decent living conditions as members of the community in which they live, when and where they cannot equally enjoy their fundamental social rights, like the right to work, to education, or to health. As the Secretary General of the Council of Europe quite rightly pointed out in his 2015 Report on the State of Human Rights, Democracy and the Rule of Law in Europe, *“Political systems seen to protect social rights are likely to command greater levels of public confidence. In addition, the cohesive quality of these rights has taken on a new importance against a backdrop of on-going austerity, rising populism and in the fight against violent extremism and radicalisation. By promoting equal opportunity, social rights encourage individuals to remain within mainstream society and help lessen the appeal of other, more extreme or divisive paths.”*

2015 has also been a challenging year because of the refugee and migrant crisis. More than a million migrants and refugees crossed into Europe, seeking refuge from war, terror, torture, persecution and poverty, and creating division in Europe, namely in the EU and EU member states, over how best to deal with the resettlement of people. Guaranteeing this million people hospitality and respect for their dignity and fundamental rights, and prompt and proper social integration in host countries, is a major challenge for the States Parties of the European Social Charter, and one that to which they must all rise.

In 2015 (as in previous years since 2008) a further issue of concern and difficulty facing the protection of social rights in Europe was the negative impact on workers, families and the most vulnerable members of society of the continuing economic crisis and the corresponding measures adopted by States. Inadequate levels of social security and social assistance benefits continue to affect those who are most vulnerable – the poor, the elderly and the sick - disproportionately. Public policies continue to be unable to stem a widespread increase in poverty and unemployment in Europe. Health care systems are under growing pressure from austerity measures and there are signs that less importance may be given to the protection of health and safety at work.

Against this backdrop, the European Committee of Social Rights (with the crucial support of the Department of the European Social Charter) increased its efforts to make the European Social Charter a living and effective instrument for the protection of social rights, by trying to combine in all its activities a threefold approach: a legally rigorous but evolving interpretation and application of the Charter, which is intended as a human rights treaty; on-going dialogue with national authorities and organised civil society, with a view to finding the best possible ways to ensure adequate protection of the rights enshrined in the Charter; regular co-operation and exchange of views with other European and international institutions, courts, and monitoring bodies involved in the protection of human rights and social policies.

Such a threefold approach is clearly reflected in the whole range of activities carried out by the Committee over the past year, which has been a year of change and innovation for the Committee in terms both of composition and monitoring procedures.

As for the composition of the Committee, four new members joined in 2015: Krassimira Sredkova (Bulgarian), Raul Canosa Usera (Spanish), Marit Frogner (Norwegian), and François Vandamme (Belgian). And a new President was elected to continue the work done by the predecessor, Luis Jimena Quesada, whose term of office came to an end in December 2014 (together with that of three other former members: Rüşan Işık, Alexandru Athanasiu and Jarna Petman). President Jimena Quesada, to whom I wish to pay a special tribute, left the Committee a remarkable legacy of commitment, which should be given lasting recognition.

As for the monitoring procedures, in 2015 the Committee started to put into practice the changes to the reporting system that were adopted by the Committee of Ministers on April 2014, with the main objective of simplifying the mechanism for States Parties which have accepted the collective complaints procedure. Following these changes, the system now comprises two new types of reports, in addition to the “ordinary” reports on a thematic group of Charter provisions. Firstly simplified reports on follow-up to collective complaints for States bound by the collective complaints procedure, which do not have to submit the “ordinary” report on the thematic group of provisions in the same year (this past year, the conclusions adopted by the Committee in this respect concerned the following eight States: France, Greece, Portugal, Italy, Belgium, Bulgaria, Ireland, and Finland). Secondly reports on conclusions of non-conformity on grounds of repeated failure to provide information, adopted by the Committee the preceding year. The conclusions in this respect may concern both States reporting on the thematic group of provisions and those reporting on follow-up to complaints.

With regard to the “ordinary” reporting procedure, in 2015 the Committee examined reports submitted by States Parties on the provisions of the Charter belonging to the thematic group “Children, families and migrants”, focusing on such crucial issues as the right of children, young persons and mothers to protection (Articles 7 and 17), the right of employed women to protection (Article 8), the right of the family to social, legal and economic protection (Article 16), the right of workers with family responsibilities to equal opportunity and treatment (Article 27), the right of migrant workers and their families to protection and assistance (Article 19), and the right to housing (Article 31).

In dealing with such rights and provisions, the Committee made an intense effort both to clarify its case-law on certain critical issues and to apply the Charter as a living instrument to be constantly adapted to changing situations. The number of statements of interpretation adopted by the Committee is testimony to this. Let me point out, in particular, the statements of interpretation of Article 8§1 (“taking into account periods of unemployment in the assessment of the qualifying period for maternity benefits”), Article 27§2 (“remuneration during parental leave”), Article 19§6 (“language and integration tests”), Article 19§8 (“expulsions in case of threat to national security, or offence against public interest or morality”).

In addition, a very timely and specific statement of interpretation was adopted on the rights of refugees under the Charter. Considering the urgency and gravity of the refugee crisis in Europe, this statement of interpretation was immediately published on the website of the Council of Europe (in October 2015), without waiting for the publication of the Committee’s annual Activity Report.

Within the framework of the other main monitoring mechanism – the quasi-judicial collective complaints procedure –, in 2015 the Committee adopted important decisions concerning *inter alia*: prohibition of all corporal punishment of children in the Czech Republic and Belgium (complaints 96/2013 and 98/2013); social protection and non-discrimination of Travellers in Ireland (complaint 100/2013); the right guaranteed to women with respect to the access to termination of pregnancy procedures, and the rights of non-objecting medical practitioners involved in such procedures, in Italy (complaint 91/2013). With respect to the latter complaint, the Committee, following a request by the Italian government and in keeping with its own approach of openness to constructive dialogue with States Parties to the Charter, decided to hold a public hearing on 7 September 2015. And it is worth stressing that the last time the Committee held a public hearing for the decision of a collective complaint was more than five years ago.

In the same spirit of constructive dialogue, in June 2015 and for the first time ever, the Committee held a meeting between the government agents and the Bureau of the Committee, on recent developments and some practical issues relating to the collective complaints procedure.

But 2015 has not only been a year of changes and innovations for the Committee and the system of the European Social Charter. It has also been a year of acknowledgments and positive developments.

Let me start by recalling in this respect that in 2014 the Secretary General of the Council of Europe, in presenting his strategic vision and agenda for his second term,

included reinforcement of the European Social Charter as one of the imperatives for the increased relevance and efficiency of the Organisation; and shortly afterwards, in October 2014, he launched the “Turin process” at the High-Level Conference whose purpose was to place the Charter at the centre of the European human rights architecture.

The Turin process, which is aimed at strengthening the normative system of the Charter within the Council of Europe and in its relationship and synergy with the European Union, as well as at improving the implementation of social rights at national level, progressed significantly and gained impetus in 2015.

In February, the General Report of the Turin Conference, drawn up by Michele Nicoletti, Vice-President of the Parliamentary Assembly of the Council of Europe, was presented to the Committee of Ministers. Shortly afterwards, as a result of the presentation of the General Report, the Parliamentary Assembly took the decision to prepare a report on the Turin process.

In the context of the Belgian Chairmanship of the Council of Europe, and as a sort of follow-up to the Turin Conference, the Belgian authorities, in co-operation with the Council of Europe, held a conference on “The Future of the Protection of Social Rights in Europe” in Brussels on 12 and 13 February 2015. This event afforded a fruitful exchange between academic experts, social partners, civil society organisations and representatives of international and political institutions, which resulted in the “Brussels Document”, drawn up by a group of academic experts chaired by the General Coordinator of the Academic Network of the European Social Charter and Social Rights. The “Brussels Document” was handed over to the Belgium Chairmanship to provide input for the activities of the Council of Europe concerning social rights, with an updated and renewed approach.

And now a further event is about to take place. A second high-level Conference on the European Social Charter is to be held in Turin on 17-18 March 2016, with the participation of the representatives of the parliaments of all Council of Europe member states, the Parliamentary Assembly of the Council of Europe, and the European Parliament. This Conference will be an opportunity not only to strengthen the impact of the Charter and the Committee’s case-law at the level of national institutions and authorities, but also to improve the synergy between EU law and the European Social Charter, with a view to ensuring that the EU institutions take greater account of the Charter when adopting new legislative acts and policy measures.

Let us hope that all those who are concerned with the future of the protection of social rights in Europe will seize this opportunity.

Giuseppe Palmisano
Strasbourg, 8 January 2016

Part 1 – Activities of the European Committee of Social Rights in 2015

1. Overview and key figures

The European Committee of Social Rights was set up by Article 25 of the 1961 Charter and its function is to rule on the conformity of the law and practice of the States party under the revised European Social Charter of 1996, the 1988 Additional Protocol and the initial 1961 European Social Charter. It is made up of 15 independent members elected by the Committee of Ministers¹.

The Committee conducts its supervision through two distinct but complementary procedures : the reporting procedure, in which it examines written reports submitted by States party at regular intervals, and the collective complaints procedure, which allows certain national and international organisations to lodge complaints against States party that have agreed to be bound by this procedure².

In 2015, the Committee held seven sessions:

- ▶ Session 276 20 – 22 January 2015
- ▶ Session 277 16-20 March 2015
- ▶ Session 278 18-22 May 2015
- ▶ Session 279 29 June-3 July 2015
- ▶ Session 280 7-11 September 2015
- ▶ Session 281 12-16 October 2015
- ▶ Session 282 30 November - 4 December 2015

The first session was held in Brussels and was the occasion to make public Conclusions 2014 on the thematic group “Labour rights”: Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29.

The Committee held a public hearing on Complaint No. 91/2013, *Confederazione Generale del Lavoro v. Italy*, on 7 September 2015.

1. The current composition of the Committee appears in Appendix 1.
2. In response to national reports, the Committee adopts conclusions ; in response to collective complaints, it adopts decisions.

During the 2015 sessions, the Committee examined reports presented by 31 States party³ describing how they implement the Charter in law and in practice as regards the provisions covered by the thematic group “Children, families, migrants”: Articles 7, 8, 16, 17, 19, 27 and 31 (see section 4 for a more detailed presentation). The situations of the 31 states concerned were assessed therefore with regard to their conformity with the Articles of the Charter. The reports cover the period from 2010 to 2013. At the December session, the Committee adopted 824 conclusions, 278 of which were findings of non-conformity with the Charter⁴.

As a result, it was possible to identify several problems that a large number of States party encounter when applying the Charter:

- ▶ (light) work for children still persists in Europe with ill-defined or inappropriate supervision;
- ▶ exploitation of young workers and apprentices with regard to their working hours and pay is still a recurring problem;
- ▶ access to high-quality social services with sufficient capacity is particularly lacking in a large number of states, especially for children and families;
- ▶ the rights of foreign nationals are a particularly problematic issue following the restrictive measures which have been taken against them, entailing discrimination at several levels.

There has been some progress, however, despite the difficult economic and political context, particularly in the rights of workers with family responsibilities, the right to legal protection for families and the protection of children from ill-treatment.

As to the collective complaints procedure, six new complaints were lodged in 2015. The European Committee of Social Rights adopted four decisions on the merits, nine decisions on admissibility, one decision on both the merits and admissibility and one decision on both admissibility and immediate measures. Decisions on the merits related in particular to the right to social security and social assistance, the protection of children and the right to health.

In 2015, the Committee also held an informal meeting with the Government Agents appointed in the context of the collective complaints procedure (see section 3 below).

During its sessions, the Committee held meetings with representatives of several Council of Europe bodies and other international bodies.

Several Committee delegations made a contribution by taking part in bilateral meetings with a number of countries in 2015 to discuss the following points:

- ▶ the Committee’s findings in previous supervision cycles and the assessment in the current cycle of those countries’ policies concerning their Charter undertakings;

3. Four States party (Albania, Croatia, Iceland and Luxembourg) failed to submit their reports in time and so the relevant conclusions were not adopted for these states.

4. The Committee also adopted several statements of interpretation in 2015 relating to the law on refugees, the notion of light work for children, the rights of seconded workers, language tests and housing requirements in the context of family reunion, expulsions in the event of threats to national security or infringements of public order or morality and remuneration during parental leave.

- ▶ the non-accepted provisions of the Charter (the procedure laid down by Article 22 of the 1961 Charter, see also section 5 below);
- ▶ the ratification of the revised Charter and the collective complaints procedure for states that have not yet done so.

Several seminars and training courses on the Charter and the Committee's case-law were held in a number of countries and involved various former or current members of the Committee. The Committee was also represented at international conferences and events on human rights-related issues. Lists of these various meetings appear in Appendices 10 and 11.

2. Composition of the European Committee of Social Rights

The composition of the Committee is governed by Article 25 of the Charter. Its fifteen members are required to be "*independent experts of the highest integrity and of recognised competence in international social questions*". They are elected by the Committee of Ministers for a six-year period, renewable once.

Elections take place once every two years, with a third of the seats (five) to be filled at each election.

Four new members joined the Committee in 2015 as a result of the Committee of Ministers' decision of 19 November 2014 (CM (2014)94). They are Krassimira Sredkova (Bulgarian), François Vandamme (Belgian), Raul Canosa Usera (Spanish) and Marit Frogner (Norwegian).

A new President was elected from among the Committee members at the first session in 2015. Giuseppe Palmisano (Italian) replaced Luis Jimena Quesada, whose term of office expired in December 2014.

3. Collective complaints procedure

3.1. Overview

In 2015, the procedure established by the Additional Protocol of 1995 providing for a system of collective complaints, which came into force on 1 July 1998, had been accepted by 15 States party to the Charter: Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia and Sweden.

Over the period from 1998 to 2015, 119 collective complaints were lodged with the European Committee of Social Rights. The Committee issued 209 decisions, including 109 decisions on admissibility, 89 decisions on the merits, 5 decisions on both admissibility and the merits including one on admissibility and immediate measures and 2 decisions to strike out a complaint.

Six new complaints were lodged in 2015. During the seven sessions it held in 2015, the European Committee of Social Rights adopted four decisions on the merits, nine on admissibility, one on both admissibility and the merits and one on admissibility and immediate measures.

The six complaints registered in 2015 were lodged against four countries: France (3), Greece (1), Croatia (1) and the Czech Republic (1). They were submitted by 4 international NGOs and 2 national trade unions.

In 2015, the average processing time was 6.3 months for the 11 decisions on admissibility and 20.7 months for the 5 decisions on the merits. In comparison, the average times for the whole period from 1998-2015 were 4.8 months for admissibility decisions and 12.2 months for decisions on the merits.

For more detailed figures on the status of complaints by country at the end of 2015 and on the number of decisions issued by the Committee between 1998 and 2015, see Appendix 5.

3.2. Decisions made public in 2015

In 2015, the following nine decisions were made public, the first six having been adopted by the Committee in 2014.

3.2.1. Finnish Society of Social Rights v. Finland, Complaint No. 88/2012

■ On 11 February 2015, the decision on the merits in the case Finnish Society of Social Rights v. Finland, Complaint No. 88/2012, became public. The decision was adopted by the Committee on 9 September 2014.

The Association claimed that Finland had neither maintained the social security system at a satisfactory level nor enhanced the system to a higher level, in violation of Article 12§§1 to 3 of the Charter. It alleged that the minimum level of several social security benefits was below the requirements of the Charter. This concerned the following benefits: sickness, maternity and rehabilitation allowances; basic unemployment allowance and labour market subsidy; study grant; guarantee pension and social assistance.

In its decision on the merits the Committee found:

- ▶ unanimously that there was a violation of Article 12§1 of the Charter;
- ▶ unanimously that there was no violation of Article 12§3 of the Charter; and
- ▶ unanimously that there was a violation of Article 13§1 of the Charter.

A separate concurring opinion was issued by Luis JIMENA QUESADA.

The Committee of Ministers adopted Resolution CM/ResChS(2015)8 on 17 June 2015.

3.2.2. Federation of Catholic Family Associations in Europe (FAFCE) v. Ireland, Complaint No. 89/2013

■ On 18 February 2015, the decision on the merits in the case Federation of Catholic Family Associations in Europe (FAFCE) v. Ireland, Complaint No. 89/2013, became public. The decision was adopted by the Committee on 12 September 2014.

The FAFCE alleged that Ireland had failed to protect child victims of human trafficking adequately, in breach of Article 17 of the Charter, owing to a lack of efficiency in

identifying victims of trafficking and the low number of prosecutions/convictions for trafficking-related offences.

In its decision on the merits, the Committee found:

- ▶ by 11 votes to 1 that there was no violation of Article 7§10 of the Charter.

A separate dissenting opinion was issued by Luis JIMENA QUESADA and a separate concurring opinion was issued by Petros STANGOS.

The Committee of Ministers adopted Resolution CM/ResChS(2015)1 on 18 February 2015.

3.2.3. Association for the Protection of All Children (APPROACH) Ltd. v. France, Complaint No. 92/2013

■ On 4 March 2015, the decision on the merits in the case Association for the Protection of All Children (APPROACH) Ltd. v. France, Complaint No. 92/2013, became public. The decision was adopted by the Committee on 12 September 2014.

APPROACH alleged that the situation in France was in violation of Article 17 of the Charter because of the lack of explicit and effective prohibition of all corporal punishment of children in families, schools and other settings and because France had failed to act with due diligence to eliminate such punishment in practice.

In its decision on the merits the Committee found:

- ▶ unanimously that there was a violation of Article 17§1 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2015)6 on 15 April 2015.

3.2.4. Association for the Protection of All Children (APPROACH) v. Italy, Complaint No. 94/2013

On 15 April 2015, the decision on the merits in the case Association for the Protection of All Children (APPROACH) v. Italy, Complaint No. 94/2013, became public. The decision was adopted by the Committee on 5 December 2014.

APPROACH alleged that the situation in Italy was in violation of Article 17 of the Charter because Italian law had not explicitly and effectively prohibited all corporal punishment of children.

In its decision on the merits, the Committee found:

- ▶ unanimously that there was no violation of Article 17§1 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2015)7 on 15 April 2015.

3.2.5. Association for the Protection of All Children (APPROACH) Ltd. v. Ireland, Complaint No. 93/2013

■ On 27 May 2015, the decision on the merits in the case Association for the Protection of All Children (APPROACH) Ltd. v. Ireland, Complaint No. 93/2013, became public. The decision was adopted by the Committee on 2 December 2014.

APPROACH alleged that the situation in Ireland was in violation of Article 17 of the Charter because Ireland had not taken appropriate action to remedy the violation of this provision by prohibiting all corporal punishment and other forms of degrading punishment or treatment of children.

In its decision on the merits, the Committee found:

- ▶ unanimously that there was a violation of Article 17§1 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2015)9 on 17 June 2015.

3.2.6. Association for the Protection of All Children (APPROACH) Ltd v. Slovenia, Complaint No. 95/2013

■ On 27 May 2015, the decision on the merits in the case Association for the Protection of All Children (APPROACH) Ltd v. Slovenia, Complaint No. 95/2013, became public. The decision was adopted by the Committee on 5 December 2014.

APPROACH alleged that the situation in Slovenia was in violation of Article 17 of the Charter because of the lack of explicit and effective prohibition of all corporal punishment of children in families and in other settings, and because Slovenia had failed to act with due diligence to eliminate such punishment in practice.

In its decision on the merits, the Committee found:

- ▶ unanimously that there was a violation of Article 17§1 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2015)10 on 17 June 2015.

3.2.7. Association for the Protection of All Children (APPROACH) Ltd. v. Czech Republic, Complaint No.96/2013

■ On 29 May 2015, the decision on the merits in the case Association for the Protection of All Children (APPROACH) Ltd. v. Czech Republic, Complaint No. 96/2013, became public. The decision was adopted by the Committee on 20 January 2015.

APPROACH alleged that the situation in the Czech Republic was in violation of Article 17 of the 1961 Charter because of the lack of explicit and effective prohibition of all corporal punishment of children in families, in all forms of alternative care and in schools, and because the Czech Republic had failed to act with due diligence to eliminate such punishment in practice.

In its decision on the merits, the Committee found:

- ▶ unanimously that there was a violation of Article 17 of the 1961 Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2015)11 on 17 June 2015.

3.2.8. Association for the Protection of All Children (APPROACH) Ltd. v. Belgium, Complaint No. 98/2013

■ On 29 May 2015, the decision on the merits in the case Association for the Protection of All Children (APPROACH) Ltd. v. Belgium, Complaint No. 98/2013, became public. The decision was adopted by the Committee on 20 January 2015.

APPROACH alleged that Belgium was not in conformity with Article 17 of the Charter because it had not taken appropriate measures to remedy its violation of Article 17 by explicitly prohibiting all corporal punishment and other cruel or degrading forms of punishment of children and had not acted with the diligence required to ensure the elimination of corporal punishment of children in practice.

In its decision on the merits, the Committee found:

- ▶ unanimously that there was a violation of Article 17§1 of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2015)12 on 17 June 2015.

3.2.9. Federation of Catholic Family Associations in Europe (FAFCE) v. Sweden, Complaint No. 99/2013

■ On 17 June 2015, the decision on the merits in the case Federation of Catholic Family Associations in Europe v. Sweden, Complaint No. 99/2013, became public. The decision was adopted by the Committee on 17 March 2015.

The FAFCE alleged that the situation in Sweden constituted a violation of Article 11§§1, 2 and 3 of the Charter, taken alone or in conjunction with Article E, on the following grounds:

“a) failure to enact a comprehensive and clear legal and policy framework governing the practice of conscientious objection by health care providers in Sweden;

In its decision on the merits the Committee found unanimously that:

b) there was no guarantee that health care workers, physicians and medical students who claimed their right to conscientious objection would not be treated in a discriminatory way;

c) the Swedish Board of Health and Welfare was allowed to unlawfully permit late-term abortions in cases where the foetus was viable;

d) nothing was done to prevent potential serious incidents when pregnant women were incorrectly informed by physicians during ultrasound examinations that the foetus was no longer alive;

e) nothing was done to prevent serious deficiencies where abortion was recommended by physicians, and the foetus was later found, after a second ultrasound, to be viable;

f) nothing was done to protect foetuses /infants born viable;

g) the National Board of Health and Welfare had failed to enact comprehensive and clear policy and guidelines to ensure that similar deficiencies and incidents could not occur again;

h) no official guidelines had been drawn up on how to reduce the extremely high number of abortions performed on the youngest age group, without parental or informed consent or counselling by support services.”

In its decision on the merits the Committee found unanimously:

- ▶ with regard to the complaint relating to conscientious objection, that Article 11 of the Charter was not applicable;

- ▶ that, since Article 11 of the Charter did not apply, no question of discrimination could arise;
- ▶ with regard to the complaint relating to the practice in respect of abortions, that there was no violation of Article 11 of the Charter;
- ▶ with regard to the complaint relating to the alleged high number of abortions, that there was no violation of Article 11 of the Charter.

3.3. Public hearing

In the case *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 91/2013, the Committee held a public hearing at the request of the respondent Government at the Human Rights Building in Strasbourg on 7 September 2015.

3.4. Further decisions adopted in 2015

The following decisions adopted by the European Committee of Social Rights in 2015 will also become public in 2016:

- ▶ the decision on the merits in the case *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 91/2013, which was adopted at the 281st session of the Committee [at the time of writing, the decision on the merits has not yet been made public];
- ▶ the decision on the merits in the case *European Roma Rights Centre (ERRC) v. Ireland*, Complaint No. 100/2013, which was adopted at the 282nd session of the Committee [at the time of writing, the decision on the merits has not yet been made public].

3.5. Follow-up to decisions of the European Committee of Social Rights by the Committee of Ministers

In the event of a violation of the Charter, the state concerned is asked to notify the Committee of Ministers of the Council of Europe of the measures taken or planned to bring the situation into conformity.

The Committee of Ministers may adopt a resolution, by a majority of those voting. The resolution takes account of the respondent state's declared intention to take appropriate measures to bring the situation into conformity.

If the state in question does not indicate its intention to bring the situation into conformity, the Committee of Ministers may also adopt a recommendation to the state. In view of the importance of this act, a two-thirds majority of those voting is required in such cases. In the case of both resolutions and recommendations, only States party to the Charter may take part in the vote.

The Committee of Ministers' decision is based on social and economic policy considerations. The Committee of Ministers cannot reverse the legal assessment made by the European Committee of Social Rights.

As to the practical organisation of follow-up, in February 2012 the Committee of Ministers entrusted its Group of Rapporteurs on Social and Health Questions (GR-SOC) with the task of following up on the European Committee of Social Rights' decisions under the collective complaints procedure with a view to preparing draft resolutions.

In 2015, the Committee of Ministers adopted 11 resolutions concerning 11 complaints:

1) CM/ResChS(2015)1E / 18 February 2015

Resolution - Complaint No. 89/2013 by the Federation of Catholic Family Associations in Europe (FAFCE) against Ireland (adopted by the Committee of Ministers on 18 February 2015, at the 1220th meeting of the Ministers' Deputies)

2) CM/ResChS(2015)4E / 15 April 2015

Resolution - European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012 (adopted by the Committee of Ministers on 15 April 2015 at the 1225th meeting of the Ministers' Deputies)

3) CM/ResChS(2015)5E / 15 April 2015

Resolution - Conference of European Churches (CEC) v. the Netherlands, Complaint No. 90/2013 (adopted by the Committee of Ministers on 15 April 2015 at the 1225th meeting of the Ministers' Deputies)

4) CM/ResChS(2015)6E / 15 April 2015

Resolution - Association for the Protection of All Children (APPROACH) Ltd. v. France, Complaint No. 92/2013 (adopted by the Committee of Ministers on 15 April 2015 at the 1225th meeting of the Ministers' Deputies)

5) CM/ResChS(2015)7E / 15 April 2015

Resolution - Association for the Protection of All Children (APPROACH) Ltd. v. Italy, Complaint No. 94/2013 (adopted by the Committee of Ministers on 15 April 2015, at the 1225th meeting of the Ministers' Deputies)

6) CM/ResChS(2015)8E / 17 June 2015

Resolution - Finnish Society of Social Rights v. Finland, Complaint No. 88/2012 (adopted by the Committee of Ministers on 17 June 2015 at the 1231st meeting of the Ministers' Deputies)

7) CM/ResChS(2015)9E / 17 June 2015

Resolution - Association for the Protection of All Children (APPROACH) Ltd v. Ireland, Complaint No. 93/2013 (adopted by the Committee of Ministers on 17 June 2015 at the 1231st meeting of the Ministers' Deputies)

8) CM/ResChS(2015)10E / 17 June 2015

Resolution - Association for the Protection of All Children (APPROACH) Ltd v. Slovenia, Complaint No. 95/2013 (adopted by the Committee of Ministers on 17 June 2015 at the 1231st meeting of the Ministers' Deputies)

9) CM/ResChS(2015)11E / 17 June 2015

Resolution - Association for the Protection of All Children (APPROACH) Ltd v. Czech Republic, Complaint No. 96/2013 (adopted by the Committee of Ministers on 17 June 2015 at the 1231st meeting of the Ministers' Deputies)

10) CM/ResChS(2015)12E / 17 June 2015

Resolution - Association for the Protection of All Children (APPROACH) Ltd v. Belgium, Complaint No. 98/2013 (adopted by the Committee of Ministers on 17 June 2015 at the 1231st meeting of the Ministers' Deputies)

11) CM/ResChS(2015)13E / 17 June 2015

Resolution - Federation of Catholic Family Associations in Europe (FAFCE) v. Sweden, Complaint No. 99/2013 (adopted by the Committee of Ministers on 17 June 2015 at the 1231st meeting of the Ministers' Deputies)

3.6. Reform of the system for the follow-up of collective complaints

On 2 April 2014, the Committee of Ministers adopted changes to the Charter's reporting and monitoring system, the main aim of which was to simplify the reporting system for States Parties which have accepted the collective complaints procedure.

In practice, the main changes can be summarised as follows: in 2014, France, Greece, Portugal, Italy, Belgium, Bulgaria, Ireland and Finland submitted a simplified national report in which they described the follow-up action taken in response to the European Committee of Social Rights' decisions on collective complaints filed against them.

In 2015, as part of its follow-up work on collective complaints, the Committee examined these simplified national reports and noted that the following situations had been brought into conformity with the Charter:

a) Defence for Children International (DEI) v. Belgium, Complaint No. 69/2011, decision on the merits of 23 October 2012

In its decision on the merits, the Committee concluded in particular that there had been a violation of Articles 17§1 and 7§10 on the grounds that the Government had not taken the necessary and appropriate steps to provide the necessary care and assistance for unaccompanied foreign minors not seeking asylum and accompanied foreign minors unlawfully present, and to afford them special protection from physical and moral hazards.

In its assessment of the follow-up action taken in response to the complaints under Articles 17§1 and 7§10, the Committee took note of the measures taken to provide unaccompanied foreign minors and accompanied foreign minors unlawfully present with shelter in a reception centre and invited Belgium to provide information in forthcoming reports on the continuation of this policy for the reception of unlawfully present unaccompanied foreign minors.

The Committee found that the situation had been brought into conformity with the Charter.

b) International Federation of Human Rights (FIDH) v. Belgium, Complaint No. 75/2011, decision on the merits of 18 March 2013

In its decision on the merits, the Committee concluded in particular that:

- ▶ there was a violation of Article E taken in conjunction with Article 14§1 on the ground that Belgium had not created sufficient day and night care facilities to prevent the exclusion of many highly dependent persons with disabilities from social welfare services suited to their specific, tangible needs;
- ▶ there was a violation of Article E taken in conjunction with Article 16 on the ground that the shortage of care solutions and of social services adapted to the needs of persons with severe disabilities obliged highly dependent persons to live with their families and caused many families to live in precarious and vulnerable circumstances.

In its assessment of the follow-up to the complaint in this respect, the Committee considered that the measures planned to comply with Article 14§1 of the Charter indicated that the Belgian authorities were taking into account the particular situation and needs of highly dependent adults with disabilities. As this group was now catered for by social policies, the discrimination against highly dependent adults with disabilities had been eliminated.

The Committee found that the situation had been brought into conformity with Article 14§1 of the Charter and with Article E taken in conjunction with Article 16.

c) European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 48/2008, decision on the merits of 18 February 2009

In its decision on the merits the Committee concluded that there was a violation of Article 13§1 of the Charter on the ground that the amendments to the Social Assistance Act suspended minimum income for persons in need after 18, 12 or 6 months.

In the assessment of the follow-up to the complaint in this respect, the Committee noted that a further amendment to the Social Assistance Act now guaranteed social assistance to persons in need for an unlimited period.

The Committee found that the situation had been brought into conformity with the Charter.

d) Syndicat national des Professions du tourisme v. France, Complaint No. 6/1999, decision on the merits of 10 October 2000

In its decision on the merits the Committee concluded in particular that there was a violation of Article 1§2 because of the differences in treatment between the approved lecture guides of the Villes et Pays d'Art et d'Histoire network and the CNMHS and national museums on the one hand and the interpreter guides and national lecturers with a state diploma on the other with regard to the freedom to conduct guided tours.

In the assessment of the follow-up to the complaint in this respect, the Committee took note of the reform of the profession of guide by Decree No. 2011-930 of 1 August 2011 on persons qualified to conduct guided tours of museums and historical monuments. This decree put an end to the difference in treatment between the approved lecture guides of the Villes et Pays d'Art et d'Histoire network and the CNMHS and national museums on the one hand and the interpreter guides and national lecturers with a state diploma on the other with regard to the freedom to conduct guided tours.

The Committee concluded that the situation had been brought into conformity with the Charter.

e) European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009

In its decision on the merits, the Committee found in particular that there was a violation of Article E taken in conjunction with Article 31 on the ground that Travellers suffered discrimination in the implementation of the right to housing and concluded that there was a violation of Article E taken in conjunction with Article 16 on the ground that there was a violation of Article E taken in conjunction with Article 31.

In the assessment of the follow-up to the complaint in this respect, the Committee took note of the specific measures taken with regard to Travellers' right to housing. It asked for the next report, which would be submitted in October 2017, to continue to describe any further measures taken and report on the implementation of measures that had already been adopted.

The Committee found that the situation had been brought into conformity with Article E taken in conjunction with Article 31 of the Charter and hence with Article E taken in conjunction with Article 16.

f) Médecins du Monde – International v. France, Complaint No. 67/2011, decision on the merits of 11 September 2012

In its decision on the merits the Committee concluded in particular that there was a violation of Article E taken in conjunction with Article 17§2 because the French education system was not sufficiently accessible to Roma children of Romanian and Bulgarian origin.

In the assessment of the follow-up to the complaint in this respect, the Committee took note of the adoption in 2012 of the three circulars and other measures concerning the education of Roma children of Romanian and Bulgarian origin. It regarded these circulars and measures as steps forward and invited the Government to continue its efforts in this area. It asked for the next report, which would be submitted in October 2017, to state what the school attendance rate was for Roma children of Romanian and Bulgarian origin.

Pending receipt of this information, the Committee concluded that the situation had been brought into conformity with the Charter.

g) Quaker Council for European Affairs v. Greece, Collective Complaint No. 8/2000, decision on the merits of 25 April 2001

In its decision on the merits the Committee concluded in particular that there was a violation of Article 1§2 of the 1961 Charter on the ground that the duration of civilian service, which is 18 months longer than that of the corresponding military service, amounted to a disproportionate restriction on “the right of the worker to earn his living in an occupation freely entered upon”.

In the assessment to the follow-up to the complaint in this respect, the Committee took note of the amendment reducing the duration of alternative service.

The Committee found that the situation had been brought into conformity with the 1961 Charter.

h) International Federation for Human Rights (FIDH) v. Greece, Complaint No. 72/2011, decision on the merits of 23 January 2013

In its decision on the merits the Committee concluded in particular that there was a violation of Article 11§2 of the 1961 Charter on the ground that in view of the pollution of the Asopos River the authorities had not taken appropriate measures to provide advisory and educational facilities for the promotion of health.

In the assessment of the follow-up to the complaint in this respect, the Committee took note of all the educational measures designed to inform the public. It asked for the next report to continue to describe any further measures taken and report on the implementation of measures that had already been adopted.

The Committee found that the situation had been brought into conformity with the 1961 Charter.

i) European Council of Police Trade Unions (CESP) v. Portugal, Complaint No. 60/2010, decision on the merits of 17 October 2011

In its decision on the merits, the Committee concluded that there was a violation of Article 4§2 of the Charter on the ground that police officers on active prevention (*prevenção activa*) duties and shift duties (*serviço de piquete*) did not receive increased remuneration as required nor even remuneration equivalent to their basic hourly pay.

In the assessment of the follow-up to the complaint, the Committee noted that as a result of the new legislation, the remuneration of police officers on active prevention (*prevenção activa*) duties and shift duties (*serviço de piquete*) was now higher than their ordinary remuneration.

The Committee considered that the supplements payable in situations of active prevention and shift duties secured the right to an increased rate of remuneration for overtime work as provided by Article 4§2 of the Charter.

The Committee found that the situation had been brought into conformity with the Charter.

3.7. Informal meeting between the Bureau of the Committee and Government Agents

Rule 25 of the Committee's Rules provides in particular that "states shall be represented before the Committee by the agents they appoint". On 29 June 2015, a second informal meeting was held between the Bureau of the Committee and Government Agents. Its aim was to look into ways of improving the procedure to increase impartiality and legal precision in the assessment of complaints and hence to improve the application of the Charter. It was pointed out that the purpose of the collective complaints procedure was not to find against states but to assess whether they had applied the Charter satisfactorily in a given situation with a view to complying with the rights enshrined in the Charter.

Regarding recent developments on the collective complaints procedure, it is noted that since 2011, the average annual number of new complaints registered has increased from five to twelve. In the first six months of 2015 five complaints have been lodged, bringing the total number to 118 complaints.

The growing attention paid to this procedure, the increased promotion by the Council of Europe, and the Turin process are all factors which may account for the overall increase in the number of complaints.

The reporting procedure was amended recently with the goal, among other things, of encouraging a larger number of states to accept the procedure.

This meeting provided an opportunity to establish helpful and productive dialogue, to highlight the role of Government Agents in the collective complaints procedure and to address the following questions in particular:

- ▶ increasing the number of public hearings, given that they help to clarify questions raised and assess how serious they are;
- ▶ the role of the Committee in the interpretation of the Social Charter;
- ▶ the application of Rule 29§4 of the Committee's Rules authorising the Committee to declare a complaint admissible when it considers that the admissibility conditions are manifestly fulfilled;
- ▶ the application of immediate measures (Rule 36);
- ▶ considering striking out collective complaints if the circumstances so require;
- ▶ follow-up to Committee of Ministers' resolutions when the Committee finds one or more violations of the Charter.

4. Reporting procedure

4.1. Overview

Following the changes to the reporting procedure adopted by the Committee of Ministers at the 1996th meeting of the Ministers' Deputies on 2-3 April 2014 the system henceforth comprises three types of reports. Firstly, the ordinary reports on a thematic group of Charter provisions, secondly simplified reports every two years

on follow-up to collective complaints for States bound by the collective complaints procedure⁵ and, thirdly, reports on conclusions of non-conformity for lack of information adopted by the Committee the preceding year.

On this basis, the European Committee of Social Rights in 2015 examined reports submitted by States Parties on the articles of the Charter relating to children, families and migrants: the right of children and young persons to protection (Article 7), the right of employed women to protection of maternity (Article 8), the right of the family to social, legal and economic protection (Article 16), the right of children and young persons to social, legal and economic protection (Article 17), the right of migrant workers and their families to protection and assistance (Article 19), the right of workers with family responsibilities to equal opportunity and treatment (Article 27) and the right to housing (Article 31). The reports covered the reference period 2010-2013.

In addition, the Committee examined reports from certain States on conclusions of non-conformity for repeated lack of information in Conclusions 2013. The conclusions in this respect concerned both States reporting on the thematic group of provisions and those reporting on follow-up to complaints.

For its examination of the state reports, the Committee also had at its disposal comments on the reports submitted by different trade unions, national human rights institutions and non-governmental organisations. These comments were often crucial in gaining a proper understanding of the national situations concerned.

At its session in December 2015, the Committee adopted 824 conclusions in respect of the 31 States, including some 724 findings of violations of the Charter.⁶ There were 452 conclusions of conformity, whereas the number of “deferrals” (cases where the Committee was unable to assess the situation due to lack of information) amounted to 94 cases.

The Committee also adopted several *statements of interpretation* setting out in general norm sentences the Charter’s requirements under certain provisions or in respect of certain issues. In 2015 statements were adopted inter alia on the rights of refugees, on the notion of light work for children, on the rights of posted workers on language tests and housing requirements in the context of family reunion, on expulsions in case of threat to national security, or offence against public interest or morality and on remuneration during parental leave.

The Committee’s conclusions identify several generalised problems in the application of the Charter that affect many States Parties while varying in scope and severity and impacting on them differently.

One such problem concerns the continued existence of child labour in Europe, whether due to lax or imprecise rules on the types of (light) work that children can be engaged in or, more frequently, due to inadequate monitoring of child labour in practice.

5. See Chapter 3 on the collective complaints procedure

6. Four States Parties (Albania, Croatia, Iceland and Luxembourg) did not submit their reports in time and conclusions were therefore not adopted in respect of these States.

Another recurrent problem concerns remuneration of young workers and apprentices and the inclusion of time spent on training in working time and remunerating it as such. While the integration of young people in the labour market is of crucial importance at a time when youth unemployment rates are alarmingly high in many European countries, the Committee's conclusions are a warning not to abandon principles of fairness and to avoid exploitation of young workers and apprentices.

Access to and the quality and quantity of social services and benefits targeted at children and families such as child care, family benefits, assistance for vulnerable children, education and housing allowances are far from satisfactory in many countries. Respect for the basic rights of children and families is essential to achieving cohesive societies and combating poverty.

The rights of foreign populations in the States Parties remain a very problematic issue, which has been accentuated further by restrictive measures taken in many countries in the face of the migratory movements of recent years, often in flagrant violation of the Charter's requirements. Discrimination of foreigners in the allocation of family benefits is a widespread problem, migrant workers face discrimination in the labour market (employment conditions, trade union rights, procedural *lacunae*, etc.), sometimes in law and often in practice. The right to family reunion poses particularly thorny issues with many countries imposing excessive conditions for the exercise of this right, such as length of residence requirements, onerous language and integration tests, excessive means requirements and so on.

The Committee upheld its long-standing case law on the rights of foreigners while introducing certain clarifications with the result being a relatively large number of findings of violations. The Committee also, in a direct response to the current refugee crisis, published a statement on the rights of refugees and asylum seekers under the Charter.

As noted above, the Committee also examined certain situations where States had previously (in Conclusions 2013) been held to be in breach of the Charter due to lack of information in respect of provisions pertaining to health, social security and social protection. These situations are essentially about the failure of the States concerned to comply with their reporting obligation under the Charter and the aim of this new exercise is to immediately give States an opportunity to remedy the lack of information which may or may not hide substantive problems of non-conformity. The results were mixed: in some cases the new information provided by States did allow the Committee to reach a conclusion on substantive grounds, but in many others the information was not adequate or pertinent or even entirely absent leaving the Committee with no other choice but to reiterate the conclusion of non-conformity for lack of information.

Despite the difficult context, notably economic but also political, from which social rights have suffered in recent years, the Committee's conclusions also reflect certain positive developments that have taken place during the period under consideration. In a number of cases violations previously identified have been remedied, in others steps have been taken to bring situations into conformity, while not yet fully remedying the problem and in still others measures were taken to consolidate or improve an already satisfactory situation.

The Committee generally found that the right of workers with family responsibilities to equal opportunity and treatment was satisfactorily guaranteed in most countries, the legal and social protection of families was also evaluated positively (while problems remain concerning economic protection). Progress has been made in protecting children against ill-treatment (the number of countries prohibiting all forms of corporal punishment of children is increasing) and language teaching for migrant workers and their families is generally provided in a satisfactory manner.

Below follows firstly an overview of the Committee’s main 2015 findings article-by-article (see also the table at Appendix 6) and secondly a selection of specific examples of progress made in the application of the Charter (by country and provision).

Reporting Procedure: Committee’s assessments 2005-2015

| | 2015 | 2014 | 2013 | 2012 | 2011 | 2010 | 2009 | 2008 | 2007 | 2006 | 2005 |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|
| Examined situations | 824 | 724 | 568 | 608 | 950 | 569 | 572 | 425 | 839 | 915 | 685 |
| Conformity | 452 | 337 | 277 | 277 | 459 | 271 | 281 | 185 | 363 | 461 | 305 |
| | 55% | 46% | 49% | 45% | 48% | 48% | 49% | 43% | 43% | 50% | 45% |
| Non-conformity | 278 | 252 | 181 | 156 | 256 | 184 | 164 | 126 | 230 | 244 | 126 |
| | 34% | 35% | 32% | 26% | 27% | 32% | 29% | 30% | 28% | 27% | 18% |
| Deferral | 94 | 135 | 110 | 175 | 235 | 114 | 127 | 114 | 246 | 210 | 254 |
| | 11% | 19% | 19% | 29% | 25% | 20% | 22% | 27% | 29% | 23% | 37% |

4.2. Provisions concerned

4.2.1. The right of children to protection (Article 7)

Article 7 of the Charter guarantees the right of children and young persons to protection. It prohibits child labour (below 15 years of age) and employment of children in dangerous and unhealthy activities. It also guarantees special protection against physical and moral dangers, such as sexual exploitation.

In comparative terms, child labour may not be a major problem in most Council of Europe member states, but the Committee nevertheless found that so-called ‘light work’ that can be performed by children under the age of 15 or by children who are still in compulsory education, is not adequately regulated in many States. Firstly, some States (Cyprus, Estonia, Lithuania) authorise excessively long hours of light work during school holidays, i.e. more than 6 hours a day or 30 hours a week. The Committee considers that because of its excessive duration, the work performed by children ceases to be ‘light’ in nature and therefore, represents a violation of the Charter. Secondly, the legislation of certain States does not define the notion of light work with sufficient precision (Hungary, Republic of Moldova, Armenia, and Ukraine).

Article 7 also guarantees the right of young workers and apprentices to a fair wage (or an appropriate allowance as the case may be). The fairness of the wage of a young worker is determined with reference to the adult starting wage and/or the statutory minimum wage for adults (where applicable), and the difference must not exceed 20%.

The Committee found that that a significant number of States (e.g. Spain, the Czech Republic, Andorra, the Netherlands, the Slovak Republic, Romania, the United Kingdom and Ukraine) did not comply with this fairness criterion with young workers' wages falling too far below the level of adult wages.

As regards protection against physical and moral dangers, the Committee observed that in some States the legislation does not fully protect all children against all forms of sexual exploitation. In Estonia children between 14 and 18 years of age are not protected against all forms of child pornography, whereas in Ukraine child prostitution is only criminalised until the age of 16 and simple possession of child pornography is not a criminal offence. The majority of States have taken significant measures to address the problem of trafficking of children.

4.2.2. The right to maternity protection (Article 8)

While the great majority of national situations were found to comply with the provisions of Article 8, the Committee considered that this was not the case in 21 situations (about 17% of the total).

Under Article 8§1, the Committee assessed in particular that employed women be entitled, in law and in practice, to at least 6-weeks post-natal paid leave. A statement of interpretation was adopted, which clarified that the amount of maternity benefits should be at least equivalent to the poverty threshold level [and that, if qualifying periods are required for entitlement to maternity benefits, they should allow for some interruptions in the employment record]. The 6 findings of non-conformity (21%), concerning Azerbaijan, Bosnia and Herzegovina, Moldova, Slovak Republic, Ukraine and the United Kingdom, related mainly to shortcomings in respect of maternity benefits.

The Committee also found that in almost a third (30%) of the situations examined the dismissal of pregnant employees and employees on maternity leave was allowed in circumstances which went beyond those allowed by Article 8§2 of the Charter (Latvia, Lithuania, Slovak Republic) or that the employee concerned could not get adequate redress or compensation in case of unlawful dismissal, particularly when no reinstatement is possible (Bosnia and Herzegovina, Czech Republic, Romania, "the former Yugoslav Republic of Macedonia").

As regards the right to paid nursing breaks (Article 8§3), and the protection of employees who are pregnant, have recently given birth or are nursing their child in respect of night-work (Article 8§4) as well as in respect of dangerous, unhealthy or arduous work (Article 8§5), the few findings of non-conformity related mainly to insufficient evidence of an adequate specific protection of the women concerned in the relevant legislation (Slovenia was not in conformity with Article 8§3 during the reference period; Armenia, Bosnia and Herzegovina and Poland were not in conformity with Article 8§4; Azerbaijan, Bosnia and Herzegovina, Georgia and Ukraine were not in conformity with Article 8§5).

4.2.3. The right of the family to social, legal and economic protection (Article 16)

Article 16 guarantees the right of the family to social, legal and economic protection. Under this provision, the Committee examines housing for families, children facilities,

family counselling services, participation of associations representing families, rights and obligations of spouses, mediation services, domestic violence against women, family benefits, vulnerable families and the equal treatment of foreign nationals and stateless persons with regard to family benefits.

Among the recurring grounds of non-conformity under Article 16 (26 conclusions of non-conformity in total or 89%) the most frequent were the lack of a guarantee of equal treatment of nationals of other States Parties with respect to the payment of family benefits (Denmark, the Netherlands in respect of Aruba, the Netherlands in respect of Curaçao, Austria, Azerbaijan, Bosnia and Herzegovina, Hungary, Latvia, Lithuania, Republic of Moldova, Norway, Slovak Republic, Serbia, Ukraine, the “former Yugoslav Republic of Macedonia”) in particular in the form of excessive length of residence requirements, and the inadequate level of family benefits for a significant number of families (Spain, Poland, Czech Republic, United Kingdom, Bosnia and Herzegovina, Estonia, the Russian Federation).

Other violations identified under this provision include housing conditions of Roma (Czech Republic, United Kingdom, Hungary, Slovak Republic, Romania), insufficient measures to combat domestic violence (the Netherlands in respect of Aruba, Republic of Moldova, the Netherlands, Ukraine) and the lack of adequate legal protection for persons threatened by eviction (the Netherlands in respect of Aruba, Estonia, Hungary, Romania).

4.2.4. The right of children and young persons to social, legal and economic protection (Article 17)

Article 17 guarantees the right of children and young persons to legal, social and economic protection

The Committee has found that prohibition of all forms corporal punishment, which is at the heart of this provision of the Charter, has yet to be achieved in several States, especially in the home (Armenia, Bosnia and Herzegovina, the Slovak Republic, Slovenia) but also in schools (Lithuania) or childcare institutions (the Russian Federation, Lithuania).

In some States, like the Czech Republic, according to the legislation, bodily harm needs to attain a specific threshold of gravity for it to amount to corporal punishment. In the United Kingdom the legislation on physical punishment is based on the concept of ‘reasonable chastisement’ which allows parents to administer mild forms of punishment. Section 232 of Law No. 5237 of Turkey gives authorisation of discipline to persons who raise, educate, look after or protect children, which often amounts to allowing mild forms of corporal punishment.

The Committee has reiterated its position that the prohibition of any form of corporal punishment of children is an important measure that avoids discussions and concerns as to where the borderline is to be drawn between what might be acceptable forms of corporal punishment and what might not. Therefore, the Committee considered that the Czech Republic, the United Kingdom and Turkey violate Article 17 of the Charter.

On a positive note, the Committee has found that the new Child Protection Act of Estonia explicitly prohibits all forms of corporal punishment and thus brings the

situation into conformity with the Charter. Likewise, in Cyprus the Childcare Law was amended in 2013 to prohibit all forms of corporal punishment.

Article 17 also guarantees the rights of children in public care. The Committee has noted that in the majority of States the procedures for placement of children in care are well established and observed. Removal of children from their families due to financial difficulties is still possible in the Republic of Moldova but no longer possible in the Czech Republic where the new Article 971(3) of the Civil Code explicitly stipulates that inadequate housing conditions and material situation of parents of the child cannot *per se* be a reason for placement of children.

The Committee also observed that some States (e.g. Republic of Moldova, Hungary and Armenia) have taken steps to de-institutionalise public care by closing down large institutions and favouring placement of children in foster care or other family-type environment.

As regards young offenders, a manifestly low age of criminal responsibility (10 years of age) is still applied in the United Kingdom. Some States still make it possible to detain young offenders pending trial for long periods of time (up to two years in Poland, Hungary and the Slovak Republic). However, on a positive note, the Committee observed that the majority of States guarantee the statutory right to education for young offenders in detention facilities.

Under Article 17 the States have positive obligations to ensure equal access to education for all children, with particular attention to be paid to vulnerable groups. While in the majority of the States an effective and accessible system of education is in place, some States (Republic of Moldova, Armenia) still have low enrolment rates in compulsory education, whereas in others (Republic of Moldova) measures taken to ensure that Roma children complete compulsory education are not sufficient, Roma children are still subject to segregation in the education field (Hungary) or are disproportionately represented in special classes (the Slovak Republic). Turkey does not grant irregularly present children an effective right to education, which is also required by Article 17 of the Charter.

4.2.5. The rights of migrant workers (Article 19)

The respect of the rights of migrant workers was found to be particularly problematic, with about a third (31%) of the national situations not being in conformity with one or more of the provisions of Article 19.

In particular, in more than half (56%) of the situations examined the Committee found breaches of the migrant workers' right to equal treatment in respect of employment, trade union membership and accommodation (non-conformity with Article 19§4 in Armenia, Cyprus, Georgia, the Netherlands, Norway, Slovenia, Sweden, Turkey and Germany).

The rate of non-conformity findings rose to 72% (13 countries out of 18, namely Armenia, Austria, Cyprus, Estonia, Georgia, Latvia, the Netherlands, Serbia, "the former Yugoslav Republic of Macedonia", Turkey, Germany, Spain and the United Kingdom) as regards infringements on the right to family reunion (Article 19§6) on a variety of grounds. Apart from obstacles to family reunion related to excessive

residence (Cyprus, Estonia, Germany, Turkey), language (Austria, Germany, United Kingdom) or income requirements (Spain, United Kingdom), the Committee noted that in many cases (7 situations, namely Cyprus, Latvia, the Netherlands, Serbia, “the former Yugoslav Republic of Macedonia”, Turkey, United Kingdom), the expulsion of a migrant worker could entail the expulsion of his/her family members, without assessing their own personal circumstances, a situation all the more problematic when considering that in 6 out of 16 states (38%) the Committee found that the expulsion of migrant workers themselves did not comply with Article 19§8 of the Charter, mostly because the grounds for expulsion went beyond those permitted by the Charter (Armenia, Moldova, Serbia, Slovenia, Turkey, Germany).

In addition to the conclusions state-by-state, the Committee also adopted several statements of interpretation clarifying and/or developing the meaning and scope of Article 19. Thus, in respect of Article 19§4 the Committee, referring to its case-law (Swedish Trade Union Confederation (LO) and Swedish Confederation of Professional Employees (TCO) v. Sweden, Complaint No. 85/2012, decision on the merits of 3 July 2013), stated that any restrictions on the right to equal treatment for posted workers, which are imposed due to the nature of their sojourn, must be objectively justified by reference to the specific situations and status of posted workers, having regard to the principles of Article G of the Charter.

With respect to Article 19§6 the Committee indicated that requirements that family members pass language and/or integration tests or complete compulsory courses would be contrary to Article 19§6 of the Charter where they have the potential effect of denying entry or the right to remain to family members of a migrant worker, or otherwise deprive the right guaranteed under Article 19§6 of its substance, for example by imposing prohibitive fees, or by failing to consider specific individual circumstances such as age, level of education or family or work commitments.

Still concerning Article 19§6, the Committee recalled that restrictions on family reunion which take the form of requirements for sufficient or suitable accommodation to house family members should not be so restrictive as to prevent any family reunion and should therefore allow for exemptions to be made in respect of particular categories of cases, or for consideration of individual circumstances.

Moreover, the Committee considered that restrictions on the exercise of the right to family reunion should be subject to an effective mechanism of appeal or review, which provides an opportunity for consideration of the individual merits of the case consistent with the principles of proportionality and reasonableness.

Finally, with respect to Article 19§8 the Committee pointed out that expulsions on grounds of national security, public interest or morality can only be in conformity with the Charter if they are ordered by a court or a judicial authority, or an administrative body whose decisions are subject to judicial review. Any such expulsion should only be ordered in situations where the individual concerned has been convicted of a serious criminal offence, or has been involved in activities which constitute a substantive threat to national security, the public interest or public morality. Such expulsion orders must be proportionate, taking into account all aspects of the non-nationals' behaviour as well as the circumstances and the length of time of his/her presence in the territory of the State.

The individual's connection or ties with both the host state and the state of origin, as well as the strength of any family relationships that he/she may have formed during this period, must also be considered to determine whether expulsion is proportionate. All foreign migrants served with expulsion orders must have also a right of appeal to a court or other independent body.

4.2.6. The right of workers with family responsibilities to equal opportunity and treatment (Article 27)

Article 27 guarantees the right of workers with family responsibilities to equal opportunities and treatment. National legislation should entitle men and women to an individual right to parental leave, which should be provided to each parent and at least some part of it should be non-transferable. In its conclusions the Committee found that in the majority of States having accepted this provision of the Charter both parents enjoy a right to parental leave.

One of the key features of Article 27 is that States shall ensure that an employed parent is adequately compensated for his/her loss of earnings during the period of parental leave. The Committee found that in Turkey no compensation or remuneration is paid for parental leave, which is contrary to the Charter.

Article 27 also requires the prohibition of dismissal on the ground of family responsibilities and the existence of effective remedies in case of unlawful dismissal. The Committee has observed that dismissal on grounds of family responsibilities is prohibited in all States having accepted this provision. However, as concerns the available remedies, in some national situations (e.g. Armenia and Turkey) the Committee did not find it established that adequate compensation both for pecuniary and non-pecuniary damage is guaranteed.

4.2.7. The right to housing (Article 31)

Article 31 guarantees the right to housing. While Article 31 cannot be interpreted as imposing on States an obligation of "results" it notably obliges them to adopt the necessary legal, financial and operational means of ensuring steady progress, measurable and within reasonable time, in the realization of this right.

The Committee's conclusions reflect a relatively low degree of compliance with the provisions of Article 31 with an overall total of 14 conclusions of non-conformity or 63%.

Under Article 31§1, which guarantees the right to adequate housing, the most common grounds of non-conformity concerned the lack of measures taken by public authorities to improve the substandard housing conditions of Roma (Lithuania, the Netherlands, Slovenia, Ukraine) and lack of sufficient supervision for adequate housing (Slovenia, Turkey, Ukraine).

As regards Article 31§2 (reduction of homelessness) the Committee adopted a statement of interpretation, which stresses that eviction from shelters without the provision of alternative accommodation is prohibited. The most common grounds of non-conformity were lack of adequate legal protection for persons threatened by eviction (Andorra, Lithuania, Slovenia) and the absence in law of a prohibition of

eviction from emergency accommodation/shelters without the provision of alternative accommodation (Andorra, the Netherlands, Slovenia, Sweden).

Finally, under Article 31§3 on affordable housing, the Committee considered that the average waiting period for allocation of social housing was too long and that the remedies were inadequate in some States (Slovenia, Turkey) and also in one case that nationals of other States Parties lawfully residing or working regularly were not entitled to equal treatment regarding eligibility for social housing (Slovenia).

4.3. Examples of progress

When preparing Conclusions 2015, the European Committee of Social Rights noted the positive developments in the States Parties, as they appeared in the national reports on the implementation of the Charter.

The Committee welcomes these developments and invites the States Parties to continue their efforts with a view to ensuring the concrete and effective implementation of all the rights of the Charter.

This chapter contains a non-exhaustive list of these changes; they contribute to a better implementation of the Charter at national level.

4.3.1. Czech Republic

Article 7§10

Amendment to the Penal Code adopted in 2014 which increases the protection of children against sexual assaults.

Article 8§2

Article 54 of the Labour Code henceforth explicitly provides for a prohibition of dismissal on the grounds of organisational changes of pregnant employees, employees on maternity leave as well as male employees on parental leave taken within the period during which a woman employee is entitled to be on maternity leave.

Article 16

- ▶ Amendment to the School Act, which entered into force on 1 January 2012, conditions have been created for developing and subsidising company childcare facilities.
- ▶ Amendment to the Trade Act other forms of childcare facilities have been promoted.
- ▶ The Mediation Act entered into effect on 1 September 2012.
- ▶ On 1 January 2014, such as preliminary proceedings in cases of domestic violence.
- ▶ The Victims of Crime Act, which entered into force on 1 August 2013, added new provisions to regulate interim measures with a view to protecting the aggrieved party, persons closely related to her, preventing the accused party from committing a crime and ensuring effective implementation of criminal proceedings.

Article 17§1

- ▶ The new Article 971(3) of the Civil Code explicitly stipulates that “inadequate housing conditions and material situation of parents of the child cannot *per se* be a reason for the court’s decision on institutional care.
- ▶ Amendment No. 401/2012 also made significant changes to the Family Act No. 94/1963.
- ▶ Amendment No. 134/2006 of 14 March 2006

4.3.2. Germany

Article 16

- ▶ The Bavarian legislator introduced a new Act which entered into force on 30 August 2012. The new Act provides for an entitlement to Land child-raising allowance of parents of foreign origin without the characteristic of “nationality” being taken into account.
- ▶ On 25 September 2012 the Council of Ministers of the Land of Baden-Württemberg decided to end the eligibility for state child-raising allowance for all children born on or after 1 October 2012.

Article 17§1

- ▶ The Law governing the expansion of assistance for pregnant women and the regulation of anonymous childbirth, which came into force on 1 May 2014, reinforces the rights of the child. The fundamental right of the child to know his or her origins is guaranteed in that he or she is able to inspect the mother’s data and obtain information on her name, address and date of birth.
- ▶ In 2011, a law was passed with retrospective effect to 29 May 2009, whereby children born in and out of wedlock are treated equally in cases of inheritance.

4.3.3. Poland

Article 7§10

Amendments to the Criminal Code of (2012) by which the new Article 202§4 b stipulates that persons who produce, distribute, present, store or possess content showing pornographic image of minors (under the age of 18) shall subject to a fine, or imprisonment of up to 2 years.

Article 8§1

A Law of 28 May 2013 amended the provisions on maternity leave, in particular by introducing parental leave.

Article 19§2

New Law on Foreigners 2013, including streamlining of the process for applying for residence permits, and the transposition of Directive 2011/98/EU concerning third-country nationals into Polish law.

Article 19§6

Section 186 of the Law on Foreigners 2013, which entered into force after the reference period, expressly provides that the right to family reunion shall be granted in accordance with the Charter.

4.3.4. Spain

Article 7§7

Section 38§3 of the Workers' Statute was amended through the Royal Decree-Law No. 3/2012. Under the new provision, if the holiday period coincides with a temporary incapacity resulting from pregnancy, childbirth or breastfeeding that prevents the worker from enjoying it fully or partially during the calendar year to which the holiday relates, the worker may take the holiday once the incapacity is over and provided that not more than eighteen months have passed from the end of the year in which the holiday was accrued.

Article 8§3

Section 6 of Royal Decree No. 1621/2011 has extended to domestic workers the right provided under Section 37 of the Workers' Statute.

4.3.5. Andorra

Article 7§10

Prohibition of simple possession of pornographic material was introduced by amendment to the Penal Code (Act 15/2008 of 3 October 2008, entered into force on 28 October 2008), whereby Article 155.3 provides that whoever possesses pornographic material in which the images of a minor appear (real minors or persons having the appearance of minors), shall be sentenced to a term of imprisonment.

4.3.6. Armenia

Article 7§1

The Labour Code as amended by Law No HO-117-N of 24 June 2010, in its Article 17 (2(1)) states that persons between the ages of 14 and 16 may be involved only in temporary works not causing damage to health, safety, education and morality.

Article 7§7

Article 170 of the Labour Code has been amended by Law No. HO-117-N of 24 June 2010 and it now provides that "the replacement (giving-up) of annual holiday for financial compensation was not allowed, with the only exception of the situation when the employment contract is terminated.

Article 8§3

Article 258(3) of the Labour Code, governing nursing breaks, was amended in 2010 (Law No. HO-117-N of 24 June 2010) and now applies to all employees.

Article 17§2

Amendments to the Law “On general education” were introduced in 2012, which provide for inclusive education for children with special needs.

Article 19§4

In December 2013, a new Law “On employment” was adopted. The new law introduces major new programmes which were not contained in the previous legal regulations. Programmes envisaged by the new Law include the organisation of vocational training, assistance in changing employment and the organisation of employment experience for persons with no professional work experience.

4.3.7. Austria

Article 16

Under the Act to Reform the Law of Parent and Child and Name Law 2013, the courts can entrust parents with joint custody even against one of the parents’ will, where it is ruled that this would be more in the interest of the child’s well-being than if one parent were to have sole custody.

4.3.8. Bosnia and Herzegovina

Article 8§1

In accordance with a Council of Minister’s decision, as of 29 September 2010 all employees of the Bosnia and Herzegovina State Institutions, regardless of their place of residence, are entitled to maternity benefits in the amount of the average net salary earned in the last three months before the maternity leave.

Section 45 of the Brčko District Labour Act was amended on 23 August 2014 and a new Decision on the Conditions and Manners of Payment of Compensation of Salary during Maternity Leave (No. 34-000890/13 of 15 January 2014) entered into force on 22 January 2014.

4.3.9. Cyprus

Article 7§10

New legislation, L. 91(I)/2014 , which revises the legal framework for the prevention and combating sexual abuse and sexual exploitation of children and child pornography was adopted. It provides for a holistic approach to combating sexual offences committed against children and also addresses specifically offences committed online.

Clause 6 of Section 54 of the Children Law that made reference to corporal punishment has been repealed (Government Gazette 21/6/2013).

Article 8§1

The Maternity Protection Legislation (L. 100(I)/1997) was amended in 2011 to enhance the protection given to pregnant workers. Pregnant workers are entitled to a maternity leave of 18 weeks in total, including 2 weeks compulsory leave before the expected birth and 9 weeks compulsory leave after the birth, upon presentation

of a medical certificate stating the estimated date of delivery. Additional maternity leave is provided for in certain cases. All pregnant workers are entitled to a maternity leave, regardless of the time for which they have been working for a specific employer. The report confirms that there is no distinction between women employed in the public sector and those employed in the private sector.

4.3.10. Estonia

Article 7§10

The new Child Protection Act of 2014 (in force between 23 December 2013 and 31 December 2015) provides in its Section 178 (Manufacture of works involving child pornography or making child pornography available) that manufacture, acquisition or storing, handing over, displaying or making available to another person in any other manner of pictures, writings or other works or reproductions of works depicting a person of less than 18 years of age in a pornographic situation, or a person of less than 14 years of age in a pornographic or erotic situation, is punishable by a pecuniary punishment or up to three years' imprisonment.

4.3.11. Georgia

Article 27§2

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

4.3.12. Hungary

Article 16

The Criminal Code, that entered into force on 1 July 2013, introduced the crime of "domestic violence".

Article 17§1

Pursuant to the legal provisions on asylum and child protection in effect from 1 May 2011, unaccompanied minors requesting their recognition shall be placed in child protection institutes under the legal regulations on child protection. As a result, the scope of the Child Protection Act extends to unaccompanied minors requesting their recognition as well as children with an admitted status and children recognised as refugees or protected by the Hungarian authorities.

4.3.13. Lithuania

Article 16

Adoption on 26 May 2011 of the Law on Protection against Domestic Violence, which defines the concept of domestic violence, establishes the rights and liabilities

of subjects of domestic violence, implements preventive and protective measures and provides for assistance in the event of domestic violence.

4.3.14. Malta

Article 7§8

Since 2012 employers are obliged to conduct a risk assessment in accordance with the requirements of the General Provisions for Health and Safety at Work Regulations 2003, prior to assigning a worker to night work.

Article 8§1

Pregnant employees are entitled to an uninterrupted period of fully paid maternity leave of 14 weeks (increased to 18 weeks as from 1 January 2013).

Article 8§4

Following amendments in 2011 to Regulation 5 of the Protection of Maternity (Employment) a special allowance equivalent to the rate of sickness benefit is paid for the whole period necessary for the protection of the employee's health and safety.

Article 8§5

The Protection of Maternity (Employment) Regulations (Legal Notice 439/2003) were amended in 2012 to the effect that employers are now obliged to conduct a risk assessment in accordance with the requirements of the General Provisions for Health and Safety at Work Regulations 2003 (Legal Notice 36/2003).

Article 16

The entry into force of the Domestic Violence Act in 2013, which establishes a commission on domestic violence. The functions of this commission is to advise the Minister responsible for social policy on the issue of domestic violence.

Article 17§1

Article 712 *et seq.* of the Civil Code has been amended so that children of second (or subsequent) marriages or children who were adopted are not discriminated against.

Corporal punishment is unlawful in the home under a 2014 amendment to the Criminal Code. Corporal punishment is unlawful in alternative care settings under article 339 of the Criminal Code, as amended by the Criminal Code (Amendment No. 3) Act 2014. Corporal punishment is unlawful in schools under Article 339 of the Criminal Code as amended in 2014.

The age of criminal responsibility has been raised to the age of 14. The relevant provisions of the law have been changed (Article 35 of the Criminal Code) and now a child under the age of 14 shall be exempt from criminal responsibility for any act or omission. Hence the Article in the Criminal Code relating to mischievous discretion between the ages of 9 to 14 has been removed.

4.3.15. Republic of Moldova

Article 7§2

List of dangerous activities prohibited to young workers under 18, established by the Government Decision No. 541 of 7 July 2014

Article 7§10

The Criminal Code, the Code of Criminal Procedure and the Family Code have been amended in 2012.

- ▶ Article 206 (1) of the Criminal Code criminalises the recruitment, transportation, transfer, harbouring, or receipt of a child, as well as giving or receiving payments or benefits to obtain the consent of the person who exerts control over the child for the purpose of commercial or non-commercial sexual exploitation in prostitution or a pornographic industry;
- ▶ Article 208 (2) of the Criminal Code criminalises taking advantage, against any material benefits, of sexual services provided by a person who is known with certainty not to have reached the age;
- ▶ Article 208¹ of the Criminal Code defines and criminalises child pornography as production, distribution, broadcasting, import, export, offering, sale, exchange, use, or holding of pictures or of other images of one or more children involved in explicit, real, or simulated sexual activities;
- ▶ Article 175 of the Criminal Code criminalises the proposal, including through information and communication technologies, to a meeting with a child for the purpose of committing an offence against him of a sexual nature.

Article 16

Adoption on 17 July 2014 of the Housing Act.

Article 19§8

Section 54 of Law No. 200/2010 on Foreigners provides for an appeal against decisions to return a migrant to their own country.

4.3.16. Montenegro

Article 8§5

New Law on Safety and Health Protection at Work was adopted in 2014.

4.3.17. Norway

Article 17§1

Regulation No. 1255 of 2011 relating to the right to health and care services for people without permanent residence: children who are unlawfully present have the same rights to health and care services as children who live in Norway.

4.3.18. Russian Federation

Article 17§1

The Decree of the Government on the activities of establishments for orphans and children deprived of parental care was adopted on 24 May 2014. Paragraph 35 of the Decree provides that the number of children in one unit should not exceed 8 persons.

4.3.19. Serbia

Article 8§2

In 2013, the Labour Code was amended with a view to extending the protection to women on a fixed-term employment contract (Law on Amendments to the Labour Code of 8 April 2013).

Article 19§1

A new Employment of Foreign Nationals Act was adopted in November 2014, enabling free access to the Serbian labour market for EU Member State citizens.

4.3.20. Slovenia

Article 8§2

The Employment Relationships Act (ZDR-1), as amended in 2013, prohibits the employer from terminating the worker's employment contract during her pregnancy or when she is breastfeeding a child of up to one year of age, nor may the employer terminate the employment contract of a worker who is on an uninterrupted parental leave, taken in the form of full-time absence from work, and for one month after the end of such leave.

Article 8§3

Paid nursing breaks have been introduced by the new Parental Protection and Family Benefits Act (ZSDP-1), that entered into force in April 2014 and has been applicable since 1 September 2014.

4.3.21. "The former Yugoslav Republic of Macedonia"

Article 8§5

Section 162 of the Labour Relations Act, as amended in 2013 (Official Gazette No. 13/13), provides that pregnant women and mothers until one year after the birth should not perform any work which would expose them to increased risks for their health or their child's health.

Article 17§1

Entry into force of the Child Protection Act of 12 February 2013: corporal punishment is prohibited in alternative care settings (foster care, institutions, places of safety, emergency care, etc.) under Section 12 of the law.

4.3.22. Turkey

Article 7§2

A new Law on Occupational Health and Safety No. 6331 of 30 June 2012 was adopted.

The amendments introduced by Regulation No. 28566/21.02.2013 to the Regulation No. 25425 on the “Employment Procedures and Principles on Children and Young Workers”, workers who have not turned 18 cannot be employed in work which involve dangerous and unhealthy tasks such as: production and wholesale of alcohol, cigarettes and addictive substances; the production and wholesale of combustible, explosive, harmful and dangerous substances and their processing, storing and all sorts of work which involves exposure to such substances; work in excessive hot and cold environment.

Article 8§4

Under Section 8 of the Regulation on employment of female employees at night-work of 24 July 2013 (Official Gazette No. 28717), female employees cannot perform night work during their pregnancy, upon presentation of a medical certificate.

4.3.23. Ukraine

Article 7§6

The Law on Professional Development of Employees of 21 January 2012, which provides rules for organising employees’ professional training, was adopted.

Article 17§1

The Law of 15 March 2012 on amendments to the Family Code has amended Article 22 of the Family Code and set the equal minimum legal age of marriage at 18 for both genders.

4.4. Follow-up of the conclusions by the Governmental Committee

In 2015, the Governmental Committee discussed follow-up measures taken by the Governments with respect to Conclusions of non-conformity issued by the European Committee of Social Rights on Articles of the European Social Charter dealing with Labour rights.

In its discussions, the Governmental Committee applied the measures adopted by the Committee of Ministers at its 1196th meeting on 2 April 2014 and focused on the 105 Conclusions of non-conformity as selected by the European Committee of Social Rights.

In this context, the Governmental Committee voted for two warnings with respect to Article 5 of the European Social Charter (the right to organize), namely against Azerbaijan and Ireland.

During its examination, the Governmental Committee took note of important positive developments in several State Parties.

The Governmental Committee asked Governments to continue their efforts with a view to ensuring compliance with the European Social Charter and urged them to take into consideration any previous Recommendations adopted by the Committee of Ministers.

The Governmental Committee held two meetings (18-22 May 2015, 5-9 October 2015) with Mme Jacqueline MARECHAL (France) in the Chair. In accordance with its Rules of Procedure, the Governmental Committee elected Ms Kristina VYSNIAUSKAITE-RADINSKIENE (Lithuania) as its Chair. It also elected a new Bureau, which is now composed of Mr Joseph FABER (Luxembourg, 1st Vice-Chair), Ms Lis WITSØ-LUND (Denmark, 2nd Vice-Chair), Ms Odete SEVERINO (Portugal) and Ms Natalia POPOVA (Ukraine). The Chair and the Bureau were elected for a two year period starting on 1 January 2016.

The Governmental Committee took note of the initiatives undertaken in 2015 with respect to the Turin Process. This Process started in 2014 following an initiative of the Secretary General by the organisation of a High-Level Conference on the European Social Charter held in Turin from 17 – 18 October 2014. This Conference was followed up by an event held on 12 – 13 February 2015 in Brussels on ‘The future of protection of social rights in Europe’. This event was organised by the Belgian Authorities under their Chairmanship of the Committee of Ministers of the Council of Europe.

The Governmental Committee aligned to the following thematic objectives of the Turin Process:

- ▶ the promotion of further ratifications of the Revised European Social Charter as well as the further acceptance of the collective complaints procedure;
- ▶ the strive for more synergies between European Union law and the case-law of the European Social Charter.

The Governmental Committee took note of the on-going preparations concerning the organisation of a Conference called ‘TURIN 2’ scheduled for 17 – 18 March 2016 having as main events an Interparliamentary Conference of the Council of Europe member States dedicated to the European Social Charter as well as a Forum on social rights in Europe.

5. The procedure relating to non-accepted provisions

5.1. Introduction

Article A of the European Social Charter (Article 20 of the 1961 Charter) authorises states to ratify the treaty without accepting all of its substantive provisions. The same article also allows states, at any time subsequent to ratification of the treaty, to notify

the Secretary General of their acceptance of additional articles or paragraphs. This gradual acceptance principle is described in Article 22 of the 1961 Charter:

“The Contracting Parties shall send to the Secretary General, at appropriate intervals as requested by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of their ratification or approval or in a subsequent notification. The Committee of Ministers shall determine from time to time in respect of which provisions such reports shall be requested and the form of the reports to be provided.”

For the first years of the Charter’s existence, this procedure took the form of a traditional reporting exercise, with states submitting reports describing the implementation, in both law and practice, of the provisions concerned. The Committee of Ministers launched these “exercises” on eight occasions between 1981 and 2002.

In December 2002, the Committee of Ministers decided that “States having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification” and “invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the States concerned” (Committee of Ministers Decision of 11 December 2002). Following this decision, it was agreed that the European Committee of Social Rights would examine – either in meetings or as part of a written procedure – the legal and practical situation in the states concerned from the standpoint of the situation’s compatibility with the non-accepted provisions. The first examination would take place five years after ratification of the revised Social Charter and thereafter every five years, so that the situation could be assessed on a continuing basis and states would be encouraged to accept new provisions. In practice, experience has shown that states have tended to lose sight of the fact that the selective acceptance of Charter provisions must only be a temporary phenomenon.

In 2015, one state – Belgium – accepted new provisions. In June of that year it agreed to be bound by four additional provisions, namely Articles 26§2, 27§1, 27§2 and 28 of the Charter, which raised the number of accepted provisions to 91 of the 98 paragraphs of the Charter.

In 2015, the non-accepted provisions procedure concerned seven States party, of which four (Cyprus, Estonia, Ireland and Malta) were invited to present written reports and three (Bulgaria, Georgia and Montenegro) were invited to organise meetings.

In 2014, in response to requests from the authorities of Armenia and the Russian Federation, which were concerned by the procedure, the Committee decided to postpone the organisation of their meetings until 2015.

The Committee has adopted reports relating to the non-accepted provisions procedure for the following countries:

- ▶ 2014: Andorra, Romania, Russian Federation, Serbia, Slovakia, Slovenia;
- ▶ 2015: Cyprus, Estonia, Georgia, Malta, Montenegro.

The Committee will adopt the reports on Hungary (2014), Armenia (2014) and Bulgaria (2015) in 2016.

The Irish authorities have not submitted their report.

5.2. Overview of the States party concerned in 2015

5.2.1. Andorra

Andorra ratified the European Social Charter on 12 November 2004, and has accepted 79 of its 98 paragraphs. It has not accepted the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted:

6§§1-4, 16, 18§§1-3, 19§2, 19§4, 19§6, 19§8, 19§10, 21, 22, 24, 25, 27§§1-3, 28, 29 and 31§3.

In a letter of 24 September 2013, the Committee invited the Government of Andorra to supply, by the end of March 2014, written information on progress made towards accepting new provisions and the reasons for any delays in accepting these provisions. It was sent a reminder letter in September 2014. No information has been supplied.

In its report, the Committee encourages the Andorran authorities to consider acceptance of the Charter provisions identified in 2011 as not posing any problems for acceptance, namely Articles 6§§1, 2, 3 and 4, 19§2, 19§4a and b, 21, 22, 25, 27, 28 and 29.

The next examination of provisions that have not been accepted by Andorra will take place in 2019.

The Committee's report can be consulted at <http://www.coe.int/socialcharter>.

5.2.2. Armenia

Armenia ratified the European Social Charter on 21 January 2004 and has accepted 67 of its 98 paragraphs. It has not accepted the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted:

2§7, 3§§2-4, 4§1, 9, 10§§1-5, 11§§1-3, 12§2, 12§4, 13§§3-4, 14§1, 15§1, 16, 21, 23, 25, 26§§1-2, 29, 30 and 31§§1-3 (31 provisions).

Following an initial meeting on the non-accepted provisions in Yerevan in 2009, the Committee invited the Armenian authorities to organise a further meeting in 2014 on progress made towards accepting new provisions and the reasons for any delays in accepting these provisions.

The Armenian authorities asked for the meeting on non-accepted provisions to be postponed until 2015 because of planned reforms in 2014, in particular amendments to the Labour Code to bring it into line with the treaties by which Armenia was bound. This meeting was held in Yerevan on 30 September 2015.

In 2016, the Committee will adopt its report on the provisions that Armenia has not accepted.

5.2.3. Bulgaria

Bulgaria ratified the European Social Charter on 7 June 2000, and has accepted 62 of its 98 paragraphs. It has accepted the Additional Protocol providing for a system

of collective complaints, but has not yet made a declaration authorising national non-governmental organisations to lodge such complaints.

The following provisions have not been accepted:

2§1, 4§1, 9, 10§1, 10§2, 10§3, 10§4, 10§5, 12§2, 12§4, 13§4, 15§1, 15§2, 15§3, 17§1, 18§1, 18§2, 18§3, 19§1, 19§2, 19§3, 19§4, 19§5, 19§6, 19§7, 19§8, 19§9, 19§10, 19§11, 19§12, 23, 27§1, 30, 31§1, 31§2, 31§3 (36 provisions)

Following an initial meeting on the non-accepted provisions in Sofia in October 2005 and a written procedure implemented in 2010, the Committee invited the Bulgarian Government to organise a second meeting under the non-accepted provisions procedure to consider progress made towards accepting new provisions and the reasons for any delays in accepting these provisions. The meeting took place in Sofia on 18 June 2015.

In 2016, the Committee will adopt its report on the provisions that Bulgaria has not accepted.

The next examination of Bulgaria's non-accepted provisions will be in 2020.

5.2.4. Cyprus

Cyprus ratified the European Social Charter on 27 September 2000 and accepted 63 of the 98 paragraphs. In October 2011, it agreed to be bound by nine more Charter provisions (articles 2§3, 2§6, 4§5, 7§7, 8§5, 22b, 25, 27§2 and 29), and has therefore now accepted a total of 72 of the 98 paragraphs. It ratified the Additional Protocol providing for a system of collective complaints on 6 August 1996, but has not yet made a declaration authorising national non-governmental organisations to lodge such complaints.

The following provisions have not been accepted:

2§4, 3§4, 4§1, 4§2, 4§3, 4§4, 7§5, 7§9, 8§4, 13§1, 13§4, 16, 17§1, 17§2, 18§1, 18§2, 18§3, 21, 23, 26§1, 26§2, 27§1, 30, 31§1, 31§2, 31§3 (26 provisions)

Following an initial meeting on the non-accepted provisions in Nicosia in January 2006, the Committee decided to apply the written procedure in 2010 and invited the Cypriot authorities to supply written information on progress made towards accepting new provisions and the reasons for any delays in accepting these provisions. In reply, the authorities informed the Committee that ratification of further provisions was in hand.

With a view to a third application of the procedure, the Committee wrote to the Cypriot Government on 14 January 2015, inviting them, before the end of May 2015, to submit written information on the non-accepted provisions. In the light of the information supplied by the Cypriot Government on 18 June 2015, the Committee has repeated its opinion that there is nothing, either in law or in practice, to prevent immediate acceptance of the following provisions: Articles 4§3, 8§4 and 23. The Committee has invited the Cypriot Government to consider acceptance of these provisions.

The next examination of Cyprus's non-accepted provisions will be in 2020.

The Committee's report can be consulted at <http://www.coe.int/socialcharter>.

5.2.5. Estonia

Estonia ratified the European Social Charter on 11 September 2000 and accepted 79 of its 98 paragraphs. In June 2012, Estonia agreed to be bound by eight more Charter provisions, raising the number of accepted provisions to 87 of the 98 Charter provisions. It has not signed the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted:

2§4, 3§4, 4§1, 7§§5 and 6, 10§5, 18§3, 23 and 31§§1-3 (10 provisions).

Following an initial meeting on non-accepted provisions in Tallinn in April 2005 and a second in September 2010, the Committee decided to invite the Estonian Government to supply written information in application of the procedure for the third time. In the light of the information supplied by the Estonian Government on 29 May 2015, the Committee has repeated its opinion that there is nothing, either in law or in practice, to prevent immediate acceptance of the following provisions: Articles 2§4, 3§4, 7§6, 10§5, 18§3, 23 and 31§2. The Committee has invited the Estonian Government to consider acceptance of these provisions.

The next examination of Estonia's non-accepted provisions will be in 2020.

The Committee's report can be consulted at <http://www.coe.int/socialcharter>.

5.2.6. Georgia

Georgia ratified the European Social Charter on 22 August 2005, and has accepted 63 of its 98 paragraphs. It has not yet signed the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted 2§3, 2§4, 2§6, 3§1, 3§2, 3§3, 3§4, 4§1, 4§5, 8§1, 8§2, 9, 10§1, 10§3, 10§5, 12§2, 12§4, 13§1, 13§2, 13§3, 13§4, 15§1, 15§2, 16, 17§2, 21, 22, 23, 24, 25, 28, 30, 31§1, 31§2, 31§3 (35 provisions).

Following an initial meeting on non-accepted provisions in Tbilisi in July 2010, the Committee invited the Georgian Government to organise a second meeting under this procedure to consider progress made towards accepting new provisions and the reasons for any delays in accepting these provisions. The meeting took place in Tbilisi on 3 September 2015.

In its report based on the information it received at this meeting, the Committee considered that there were no major obstacles to Georgia's acceptance of the following provisions: Articles 2§3, 3§1, 3§2, 3§4, 4§5, 8§1, 8§2, 9, 10§1, 10§3, 15§1, 17§2, 21 and 22. The Committee has invited the Georgian Government to consider acceptance of these provisions.

The next examination of Georgia's non-accepted provisions will be in 2020.

The Committee's report can be consulted at <http://www.coe.int/socialcharter>.

5.2.7. Hungary

Hungary ratified the European Social Charter on 20 April 2009 and accepted 60 of its 98 paragraphs. It has not yet accepted the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted:

4§§1-5, 7§§2-10, 12§§2-4, 18§§1-4, 19§§1-12, 23, 24, 25, 26§§1-2, 27§§1-3, 28, 29, 30 and 31§§1-3 (38 provisions).

With a view to implementing the non-accepted provisions procedure for the first time, the Committee wrote to the Hungarian Government on 24 September 2013 inviting them to supply, by the end of March 2014, written information on progress made towards accepting new provisions and the reasons for any delays in accepting these provisions. In response to a request from the Hungarian Government, the Committee agreed to extend the deadline for submitting this information to 30 September 2014. It was supplied by the Hungarian authorities on 9 February 2015.

The Committee's report is currently being drawn up.

5.2.8. Ireland

Ireland ratified the European Social Charter on 4 November 2000, and has accepted 92 of the 98 paragraphs. It accepted the Additional Protocol providing for a system of collective complaints on 04/11/2000, but has not yet made a declaration authorising national non-governmental organisations to lodge such complaints.

The following provisions have not been accepted: 8§3, 21, 27§1, 31§§1-3 (6 provisions).

Following an initial meeting on non-accepted provisions in Dublin in October 2005, the Committee invited the Irish Government to supply written information in 2010 on progress made towards accepting new provisions and the reasons for any delays in accepting these provisions. Unfortunately, no information has been forthcoming.

With a view to implementing the procedure for a third time, the Committee has again invited the Irish Government to submit written information by the end of May 2015.

The Committee awaits the requested written contribution.

5.2.9. Malta

Malta ratified the European Social Charter on 27 May 2005, and has accepted 72 of its 98 paragraphs. It has not accepted the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted: 2§4, 2§7, 8§3, 12§2, 18§§1-3, 19§§1-12, 21, 22, 27§1, 30 and 31§§1-3 (26 provisions).

Following an initial meeting on the non-accepted provisions in Valetta in December 2010, the Committee invited the Maltese Government to supply written information in 2015 on progress made towards accepting new provisions and the reasons for any delays in accepting these provisions. The Maltese authorities submitted the information requested on 28 May 2015.

In its report based on the information it received at this meeting, the Committee considered that there were no major obstacles, in either law or practice, to Malta's acceptance of the following provisions: Articles 2§7, 12§2, 18§2, 19§§1, 5, 9 and 11, 21, 22, 27§1, 30 and 31§2 of the Charter. The Committee has invited the Maltese government to consider acceptance of these provisions.

The next examination of the provisions that Malta has not accepted will take place in 2020.

The Committee's report can be consulted at <http://www.coe.int/socialcharter>

5.2.10. Montenegro

Montenegro ratified the European Social Charter on 3 March 2010, and has accepted 66 of the 98 paragraphs. It has not accepted the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted:

2§3, 2§4, 2§5, 2§7, 4§1, 4§4, 7§10, 10§5, 18§1, 18§2, 18§3, 18§4, 19§1, 19§2, 19§3, 19§4, 19§5, 19§6, 19§7, 19§8, 19§9, 19§10, 21, 22, 25, 26§2, 29, 30, 31§1, 31§2, 31§3 (31 provisions).

With a view to applying the non-accepted provisions procedure for the first time, the Committee invited the Government to organise a meeting to examine the legal and practical situation in the country from the standpoint of its compatibility with the non-accepted provisions of the Charter. The meeting took place in Podgorica on 5 May 2015.

In its report based on the information it received at this meeting, the Committee considered that there were no major obstacles, in either law or practice, to Montenegro's acceptance of the following provisions: Article 2§§4, 5 and 7, Articles 7§10, 10§5, 18§§1 – 4, 19§§1, 2, 3, 5, 7, 9 and 10, Articles 21, 22 and 26§2.

The next examination of the provisions that Montenegro has not accepted will be in 2020.

The Committee's report can be consulted at <http://www.coe.int/socialcharter>

5.2.11. Romania

Romania ratified the European Social Charter on 7 May 1999 and has accepted 65 of the 95 paragraphs. It has not yet ratified the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted:

2§3, 3§4, 10§§1-5, 13§4, 14§§1-2, 15§3, 18§§1-2, 19§§1-6, 19§§9-12, 22, 23, 26§§1-2, 27§1, 27§3, 30 and 31§§1-3.

Following an initial meeting in 2004 and a second in 2009, the Committee decided to apply the written procedure in 2014 and invited the Romanian authorities to supply written information on progress made towards accepting new provisions and the reasons for any delays in accepting these provisions. The Romanian Government submitted the information requested on 29 April 2014.

In its report based on the information it received at this meeting, the Committee considered that there was nothing, either in law or in practice, to prevent Romania's immediate acceptance of the following provisions: Articles 2§3, 10§§1-5, 19§§1-5, 27§1 and 27§3 of the Charter. The Committee also thought that that the following

provisions could be acceptable: Articles 19§9, 22 and 26§§1-2. The Committee has invited the Romanian Government to consider acceptance of these provisions.

The next examination of provisions that Romania has not accepted will take place in 2019.

The Committee's report can be consulted at <http://www.coe.int/socialcharter>

5.2.12. Russian Federation

The Russian Federation ratified the European Social Charter on 16 October 2009 and has accepted 67 of its 98 paragraphs. It has not yet accepted the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted:

2§2, 4§1, 12§§2-4, 13§§1-4, 15§3, 18§§1-3, 19§§1-4, 19§§6-8, 19§§10-12, 23, 25, 26§§1-2, 30, and 31§§1-3 (31 provisions).

The Committee invited the Government of the Russian Federation to organise an initial meeting in 2014 under the non-accepted provisions procedure to consider progress made towards accepting new provisions and the reasons for any delays in accepting these provisions.

In November 2014 the Russian authorities asked for the meeting to be postponed until 2015 on account of a revision of the timetable of the parliamentary committee on labour, social policy and veterans affairs, which had been charged with organising an exchange of views on the Charter provisions not yet accepted by the Russian Federation. This exchange of views took place in Moscow on 10 April 2015.

The Committee has drawn up its report on the basis of the information received at this exchange of views and in the light of the document supplied by the Russian authorities on 23 July 2015, entitled "Comparative analysis of the non-ratified provisions of the European Social Charter from the standpoint of their compatibility with the current legislation of the Russian Federation. Preparation of proposals for the possible acceptance by the Russian Federation of non-ratified provisions of the Social Charter". In its report, the Committee considers that there are no major legal obstacles to the Russian Federation's acceptance of the following provisions: Articles 2§2, 12§3, 13§2, 13§3, 15§3, 19§1, 19§3, 19§4, 19§10, 23 and 31. The Committee has invited the Russian Government to consider acceptance of these provisions.

The next examination of provisions that the Russian Federation has not accepted will take place in 2019.

The Committee's report can be consulted at <http://www.coe.int/socialcharter>

5.2.13. Serbia

Serbia ratified the European Social Charter on 14 September 2009 and has accepted 88 of the 98 paragraphs. It has not yet ratified the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted:

2§4, 10§5, 19§§11-12, 27§§1-3 and 31§§1-3 (10 provisions).

The Committee invited the Serbian Government to organise an initial meeting in 2014 under the non-accepted provisions procedure to consider progress made towards accepting new provisions and the reasons for any delays in accepting these provisions. The meeting took place in Belgrade on 4 November 2014.

In its report based on the information it received at this meeting, the Committee considered that there were no major obstacles to Serbia's acceptance of the following provisions: Articles 2§4, 10§5, 19§12, 27§§1-3 and 31§§1-3. The Committee has invited the Serbian Government to consider acceptance of these provisions.

The next examination of provisions that Serbia has not accepted will take place in 2019.

The Committee's report can be consulted at <http://www.coe.int/socialcharter>

5.2.14. Slovak Republic

Slovakia ratified the European Social Charter on 23 April 2009 and has accepted 88 of the 98 paragraphs. It signed the Additional Protocol providing for a system of collective complaints on 18 November 1999 but has not yet ratified it.

The following provisions have not been accepted:

13§4, 18§3, 19§§2-3, 19§8, 19§10, 19§12 and 31§§1-3 (10 provisions).

The Committee wrote to the Slovakian Government on 24 September 2013, inviting them to organise an initial meeting in 2014 under the non-accepted provisions procedure to consider progress made towards accepting new provisions and the reasons for any delays in accepting these provisions. In November 2013, the Slovakian authorities said that they would prefer to prepare written information on the non-accepted provisions. Following this request, the Committee decided to implement the written procedure. As a result, in a letter dated 15 May 2014, it invited the Slovakian Government to submit a report on the non-accepted provisions by 30 September 2014. The information requested was supplied by the Slovakian authorities on 30 September 2014.

In its report based on the information received, the Committee stated that Slovakia could consider acceptance of Articles 18§3 and 19§4 (c) of the Charter. It also thought that it might be possible to accept Articles 19§3 and 31§2, having regard to the measures taken to improve practices in the areas concerned. The Committee has invited the Government to consider acceptance of these provisions.

The next examination of provisions that Slovakia has not accepted will take place in 2019.

The Committee's report can be consulted at <http://www.coe.int/socialcharter>

5.2.15. Slovenia

Slovenia ratified the European Social Charter on 7 May 1999 and has accepted 95 of the 98 paragraphs. It ratified the Additional Protocol providing for a system of

collective complaints on 7 May 1999, but has not yet made a declaration authorising national non-governmental organisations to lodge such complaints.

The following provisions have not been accepted:

13§1, 13§4 and 18§2 (3 provisions).

The Committee wrote to the Slovenian Government on 24 September 2013, inviting them to supply, by the end of March 2014, written information on progress made towards accepting new provisions and the reasons for any delays in accepting these provisions. They were sent a reminder letter in September 2014. The information requested was supplied by the Slovenian authorities on 13 January 2015.

In its report based on the information received, the Committee notes that the Slovenian authorities are considering acceptance of Article 18§2 of the Charter in the near future and it considers that the current legal and practical situation in Slovenia does not appear to pose any major obstacles to acceptance of Articles 13§4 and 18§2 of the Charter. The Committee has invited the Slovenian Government to consider acceptance of these provisions.

The next examination of provisions that Slovenia has not accepted will take place in 2019.

The Committee's report can be consulted at <http://www.coe.int/socialcharter>.

6. Internal Council of Europe matters

On 18 March 2015, the President of the European Committee of Social Rights held an exchange of views with the **Committee of Ministers** (Appendix 14).

The President talked about a number of aspects of his Committee's activities in 2014, and observed that the Turin process had brought the Charter to the forefront of the European political scene, enabling it to offer greater safeguards for social rights and strengthen the European model, based on a system of advanced social protection.

He welcomed the fact that the Secretary General had made protecting social rights and strengthening the Charter one of the priorities of his second term of office. He thanked the Belgian Chair of the Committee of Ministers for ensuring that the Turin Conference had been properly followed up by organising, on 12 and 13 February 2015, the Brussels Conference on the future of social rights protection in Europe.

The President referred to the main objectives of the Turin process and said that he had a number of priorities for his term of office, namely to increase the number of states participating in the revised Charter and the collective complaints procedure, strengthen dialogue between the Committee and national states at all levels, continue the dialogue with the European Union to ensure that the bodies and agencies concerned took more account of the Charter, increase the number of members of the Committee, strengthen the Committee's Secretariat and its status in the organisation and improve the Charter's communication policy within the Organisation.

The President had also informed the Council of Europe **Parliamentary Assembly** of non-compliance situations that called for intervention from national parliaments, in the form of amendments to legislation or other types of action (Appendix 7).

At the Committee of Ministers' request, the European Committee of Social Rights had submitted a number of comments on the Parliamentary Assembly's Recommendation 2058 (2014). His committee had agreed fully with the points made in the recommendation and the requests made to the Committee of Ministers, in particular that it should take all necessary steps to encourage ratification and implementation of the revised Social Charter by all member States. The Committee had stressed that these measures should strengthen not only access to social rights but also "their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights and where necessary specifically target the most vulnerable groups and regions".

The Committee has also commented on Recommendation 361 (2014) of the **Congress of Local and Regional Authorities** entitled "Promoting equal opportunities for people with disabilities and their participation at local and regional levels", in which it fully supported the proposals of the Congress to the Committee of Ministers regarding the need for Council of Europe member States to increase their efforts to protect the rights of persons with disabilities. It totally agreed with the recommendation's call for national and regional mechanisms to help disabled people exercise their rights. It referred to Article 15 of the revised Social Charter and its related decisions and conclusions and emphasised that the rights of persons with disabilities, as laid down in the Charter, were deemed to be basic human rights standards. The protection afforded to disabled persons was an example of the "organic" link between the protection of social rights and each individual's right to personal dignity.

It should also be noted that in September 2015 the Parliamentary Assembly started to prepare a political report on the Turin process, a first version of which will be considered by its Social Affairs Committee in November 2015. The Assembly will discuss the draft in 2016, with a view to adopting a recommendation to the Committee of Ministers and/or a resolution to the Council of Europe member States.

The Committee was represented by one of its members and a member of the Secretariat on a training session for representatives of international non-governmental organisations (INGOs) on the collective complaints procedure. This was held in Brussels on 22 September 2015 and was organised by the **Conference of INGOs of the Council of Europe** and the Social Platform, with the support of the European Economic and Social Committee and the Academic Network on the European Social Charter and Social Rights (ANESC).

The training was designed to improve INGOs' understanding of the collective complaints procedure and the related European Social Charter system of rules and regulations, stimulate discussion among INGOs on their opinions on and experiences of the procedure regarding specific themes, provisions and/or States parties, and provide technical advice to INGOs wishing to make better use of the procedure.

On 16 October 2015, the Committee President addressed the opening session of the INGO Conference in Strasbourg on “Civil society tackling child poverty in Europe”, as part of the International Day for the Eradication of Poverty. He drew attention to the Committee’s case-law on child protection and the need to combat poverty.

On 23 November 2015, the **Secretary General** met the chairs of the Council of Europe’s monitoring and consultative bodies. The President of the Committee took this opportunity to recommend:

“... The implementation of a more effective and visible communication strategy on the Charter system and, the organisation of trainings for national judges on the Charter and its interpretation and application by the Committee;

.... The increase both the number of members of the Committee, and the quantity and legal quality and specialization of the Secretariat staff.

... The organisation of talks between you and the European Commission with a view to the signing of a joint declaration that would implement the 2007 Memorandum of Understanding specifically with respect to social rights.”

As for the improvements made to presentation of the conclusions and decisions adopted by the Committee, the President underlined that the Committee is constantly improving its working methods so as to prioritize its conclusions and decisions making them more succinct and precise.

He recalled that the Committee does not only submit a selection of our conclusions to the attention of the Governmental Committee, but in the last years also started making a selection of conclusions to be specifically submitted to the Parliamentary Assembly, concerning the issues which are more relevant from the perspective of national parliaments and national legislative activities.

As for the improvements to the Committee’s operational practices with a view to respond faster and more effectively to emergency situations, the President recalled the recent insertion in the Committee’s rules of a provision concerning the recommendation of immediate measures, and the actual application of this rule, for example, in the complaint on unaccompanied children and migrants irregularly present in the Netherlands. He also mentioned, as a different kind of example, the statement of interpretation on refugees which the Committee decided to make public immediately after its adoption in October 2015.”

The President concluded by emphasising, once again, that the collective complaints procedure is where the Committee can respond quickly and in a focused manner to pressing social rights concerns. Therefore, one of the priorities of the Turin process is to increase acceptance of the complaints procedure.

7. Relations with other international organisations

7.1. The European Union

As in 2014, the Committee was in contact with the representatives of the European Union several times with a view to strengthening synergies, as already explained in PART 1 of this activity report (see page 10 above).

The Conference of 12 and 13 February 2015 on the future of the protection of social rights in Europe⁷, which was addressed by François Vandamme, Committee President, and Régis Brillat, Executive Secretary, underlined the need for such synergies. The Conference was opened by Thorbjørn Jagland, Secretary General of the Council of Europe, and Marianne Thyssen, European Commissioner, as well as the Belgian authorities holding the Chairmanship of the Committee of Ministers. Relations between the European Social Charter and EU law were analysed by several speakers, including Professor Olivier De Schutter and Judge Koen Lenaerts, who is currently President of the EU Court of Justice. The outcome of the Conference was the Brussels document, which identified several avenues to explore, including the need to take more account of social rights in all European policies.

Attention should also be drawn to the European Parliament's Resolution⁸ of 8 September 2015 on the situation of fundamental rights in the European Union (2013-2014) (2014/2254(INI)), approved at the plenary sitting held on 8 September 2015. The Resolution makes several references not only to the European Social Charter but also to the Committee's decisions.

The strengthening of links with the European Union also led to the establishment of the collaborative platform on social and economic rights in the light of the EU Fundamental Rights Agency's active participation (see item 7.4. below).

Finally, attention should be drawn to the meeting that took place on 26 November 2015 between the EU Commissioner, Frans Timmermans, and the Secretary General of the Council of Europe, during which it was decided that the Commission and the Council of Europe should agree on contact points for mutual consultation on priority issues concerning the social rights enshrined in the Charter. With a view to the forthcoming initiative announced in the European Commission's Communication COM(2015) 610 a new European pillar of social rights, these contact points will no doubt prove to be of great value.

7.2. The United Nations and the International Labour Organisation

The European Committee of Social Rights (ECSR) maintains close relations with the relevant bodies of the United Nations (UN), in particular the UN specialized agency, the International Labour Organisation (ILO), and the Office of the High Commissioner for Human Rights (OHCHR). Under Article 26 of the Charter ILO may participate in the Committee's deliberations in a consultative capacity.

At the conference on "The future of the Protection of Social Rights in Europe" organized by the Belgian chairmanship of the Committee of Ministers of the Council of Europe

7. The Conference documents and speeches can be found on the new Social Charter website, on the page concerning the Turin Process. The speakers' contributions can be found by clicking on the following link: <http://www.coe.int/fr/web/turin-european-social-charter/conference-brussels>

8. The resolution can be consulted on the European Parliament website at the following address: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0286+0+DOC+XML+V0//EN>

in Brussels on 12-13 February 2015 representatives of the UN and ILO were among the keynote speakers, namely Virginia Bras-Gomes, member of the UN Committee on Economic, Social and Cultural Rights and Cleopatra Doumbia-Henry, Director of the ILO International Standards Department.

On 11 March 2015 in Geneva the Committee's President, Giuseppe Palmisano, was among the speakers at an event to launch an OHCHR publication on "The Economic, Social and Cultural Rights of Migrants in an Irregular Situation".

At its September session (7-11 September 2015), the European Committee of Social Rights held its annual exchange of views with an ILO delegation consisting of Alexander Egorov and Margarita Lysenkova, both from the International Standards Department of the ILO. The main topic discussed was cooperation on integrated management of the member States' compliance and reporting obligations under ratified international treaties on social rights.

On 11 December 2015, François Vandamme, member of the Committee, intervened at a seminar on "Economic, Social and Cultural Rights of Migrants – Beyond the immediate crisis" organized by OHCHR in Brussels focusing on the right to health of irregularly present migrants.

In February 2015, three UN Special Rapporteurs on extreme poverty (Philip Alston), on adequate housing (Leilani Farha) and on the human rights of migrants (François Crépeau) jointly addressed a letter⁹ to the Committee of Ministers of the Council of Europe in which they urged the Committee of Ministers to adopt a recommendation endorsing the decisions of the Committee in the complaints *Conference of European Churches v. the Netherlands* and *FEANTSA v. the Netherlands*.¹⁰ They specifically urged the Committee of Ministers to embrace the Committee's position, based on its established case law, that the provisions of the Charter may be applied to migrants in an irregular situation.

The Committee and the Department also have close contacts with the United Nations High Commissioner for Refugees (UNHCR) through its Representation to the European institutions in Strasbourg. This cooperation continued in 2015, for example with an exchange of views between Giuseppe Palmisano and the UNCHR Representative, Gert Westerveen, in March 2015 as well as in the context of informal contacts at Secretariat level on refugee-related matters. UNHCR was also an important source of information for the Committee's conclusions, notably on Articles 16, 17, 19 and 31.

At Secretariat level the Department of the European Social Charter contributes regularly to the coordination meetings between the Council of Europe and the OHCHR.

9. Letter dated 12 February 2015. See also <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15849&LangID=E>

10. *Conference of European Churches (CEC) v. the Netherlands*, No. 90/2013, decision on the merits of 1 July 2014 and *European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands*, No. 86/2012, decision on the merits of 2 July 2014. For details on the follow-up in these complaints, see Part I, Section 3.

7.3. The Academic Network on the European Social Charter (RACSE)

The Committee's co-operation with the Academic Network on the European Social Charter and Social Rights - hereafter referred to as the Network - ¹¹ increased during 2015.

It particularly concerned the organisation and conduct of the Brussels Conference on the future of the protection of social rights in Europe, which was held during the Belgian Chairmanship of the Committee of Ministers of the Council of Europe, as a follow-up to the High-Level Conference on the European Social Charter, which was held in Turin on 17 and 18 October 2014.

The Network contributed to the Brussels Conference in the form of statements by its representatives and by drafting the final document of the Conference: the Brussels Document, a summary of the main proposals made during the Conference to improve the protection of social rights which are part and parcel of human rights. These experts worked independently and took account of the conclusions of the debates held during the Conference. The Brussels Document was presented to the Belgian Chairmanship on 13 March 2015.

As mentioned above, the Network also gave its support to the training course on collective complaints organised by the Conference of INGOs and the Social Platform.

7.4. The Collaborative Platform on Social and Economic Rights

Following the Joint statement issued at the end of the Conference of the Council of Europe (CoE), the European Network of Equality Bodies (EQUINET), the European Network of National Human Rights Institutions (ENNHRI) and the European Union Agency for Fundamental Rights (FRA) held in Vienna on 7-8 October 2013, the Council of Europe takes the role of leading partner for the creation and operation of the COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights. The main objective of the Platform is to help reinforce the effectiveness of the standards for national bodies and contribute to finding responses to fundamental rights challenges in Europe, including coordinated action on regional policies.

Consequently, on 15 October 2015, the Department of the European Social Charter organised in Strasbourg the launch event of the Platform which focused on the development of tools for further co-operation and exchange of information and good practices between the partners concerned with a view to strengthening the protection of social and economic rights in Europe.

11. RACSE is an association governed by Articles 21 to 79-III of the local Civil Code kept in force in the departments of the Haut-Rhin, Bas-Rhin and Moselle by the Law of 1 June 1924, as well as by its statutes. It is registered as an association with the Strasbourg District Court. Its official address is: *La Maison des associations, 1-a Place des Orphelins, 67000 Strasbourg*. According to its statute, the RACSE's main aim is "to promote the European Social Charter and social rights in Europe, and to take any initiative likely to raise awareness of the European Social Charter and the other instruments designed to protect social rights in Europe and to improve their implementation and their protection both at the level of the Council of Europe and in its member states" (cf. Article 2). For more detailed information on RACSE, please consult the web site : <http://racseanesc.org/>

Mr. Lauri Leppik, General Rapporteur of the European Committee of Social Rights gave a presentation on the role of the Committee and its case law and helped frame discussions on some of the most pressing challenges facing our society.

The Platform on Social and Economic Rights will provide an opportunity to discuss ways to ensure that the European Social Charter, and other international human rights standards relating to economic and social rights, are taken into account in the design and implementation of national legislation and practice, and the important role of national and international human rights organisations in monitoring the respect of States' human rights commitments. The Platform will mainly focus on how to ensure greater use of the relevant human rights norms, in particular the European Social Charter, and it thereby will support the "Turin process" for the Charter. The second meeting of the Platform will take place in Strasbourg on 28 January 2016.

Part 2 – The Turin Process for the European Social Charter

1. The General Report of the Turin Conference

2015 was a key year for the Turin Process¹², which was launched by the Secretary General at the High-Level Conference¹³ on the European Social Charter, held in Turin on 17 and 18 October 2014. This process has given rise to a major political debate on the need to strengthen the convention system of the Charter within the Council of Europe and on the connections between the Charter and EU law.

The debate is based on the proposals set out in the General Report of the Turin Conference¹⁴, presented to the Committee of Ministers on 4 February 2015 by the General Rapporteur, Michele Nicoletti, Vice-President of the Parliamentary Assembly.

In the report, the member states of the Council of Europe and the European institutions concerned are invited to commit themselves to a wider acceptance of the convention system of the Charter and to better application of its provisions. The aim is to enable the Charter to fulfil its potential alongside the European Human Rights Convention and the EU Fundamental Rights Charter, in the name of the principles of the universality, indivisibility and interdependence of all fundamental rights established by the Declaration adopted at the World Human Rights Conference in Vienna in 1993.

As Mr Nicoletti pointed out: *“greater acceptance of the normative system of the Charter and a better implementation of its provisions would represent a vital step towards a fresh restart for the whole process of uniting Europe, given that it is essential for Europe to be based on the fundamental values around which its task is to bring states and their citizens together, and especially on the values of the Charter, ‘Europe’s social constitution’”*.

With this in mind, an ‘action plan’ aimed at all of the institutional actors concerned at both national and European levels was drawn up as part of the General Report of the Turin Conference.

12. See the page on the Social Charter website concerning the Turin process: <http://www.coe.int/fr/web/turin-european-social-charter/turin-process>

13. <http://www.coe.int/fr/web/turin-european-social-charter/conference-turin>

14. <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168048acf9>

In his address to the Committee of Ministers, Mr Nicoletti, referring to this plan, identified six priority fields of action. These concerned first and foremost:

- a) ratification of the revised Charter and the Protocol on collective complaints by all member states of the Council of Europe and the European Union;
- b) strengthening the collective complaints procedure, which provides the opportunity for the direct involvement of the social partners and civil society in activities for monitoring the implementation of the Charter;
- c) strengthening the position, status and composition of the European Committee of Social Rights within the Council of Europe, in particular through the election of its members by the Parliamentary Assembly;
- d) strengthening the position and status of the administrative departments assisting the European Committee for Social Rights within the Council of Europe;
- e) stepping up the dialogue and exchanges which the Turin Process has already made possible with the relevant bodies of the European Union;
- f) implementation by the Secretary General of the Council of Europe of a communication policy that would send a clear message with regard to the legal nature of the Charter and the impact of the decisions taken by the European Committee of Social Rights.

On 18 March 2015, during its annual exchange of views with the Committee of Ministers, the President of the European Committee of Social Rights drew attention to these fields of action and stressed the importance of strengthening the convention system of the Charter within the Organisation and in its relations with the European Union (Appendix 14).

2. The Brussels Conference on the Future of the Protection of Social Rights

As follow-up to the Turin Conference, the Belgian Chairmanship of the Committee of Ministers contributed to the Turin Process by holding a Conference on the Future of the Protection of Social Rights in Europe¹⁵.

This conference, which took place in Brussels on 12 and 13 February 2015, was attended by political authorities, experts and some 300 participants from the academic sector, international institutions, social partners and INGOS. The Conference was also attended by senior officials such as Thorbjørn Jagland, Secretary General of the Council of Europe, Marianne Thyssen, European Commissioner, Michele Nicoletti, Vice-President of the Parliamentary Assembly, and Kris Peeters and Maggie De Block, the Belgian Ministers of Labour and Employment and Social Affairs and Health.

Placing the protection of social rights in the international context (EU, ILO, and UN) was one of the highlights of the Conference at which the President of the European Committee of Social Rights also made a statement (Appendix 15). The relationship between the Social Charter and EU legislation was also analysed in detail by

15. <http://www.coe.int/fr/web/turin-european-social-charter/conference-brussels>

several leading experts in the field such as Professor Olivier De Schutter and Judge Koen Lenaerts, who became President of the EU Court of Justice in autumn 2015. A broad consensus emerged on the need to take greater account of social rights in all European policies.

After the Conference, a summary document - the 'Brussels Document'¹⁶ - setting out the key messages of the debates and reiterating several recommendations from the Turin Conference, was drafted by a group of independent experts chaired by Jean-François Akandji-Kombé, General Co-ordinator of the Academic Network on the European Social Charter.

This document, which was presented by the Belgian Chairmanship of the Committee of Ministers in April 2015, underlines the need to guarantee social rights in times of economic crisis, the need for consistency with regard to the protection of fundamental social rights at international level, the importance of strengthening the convention system of the Charter within the Council of Europe and the urgent need to improve synergy between this system and EU law.

3. The Council of Europe's commitment

The recommendations put forward in the context of the Turin Process, as drawn up at the Turin and Brussels Conferences, already produced tangible results at the Council of Europe in 2015.

When the Council of Europe Programme and Budget for 2016 – 2017 were adopted¹⁷ on 25 November 2015, the Committee of Ministers decided to increase the number of staff in the Secretariat of the European Committee of Social Rights, by creating two further posts for legal experts in the Charter Department and immediately transferring a third post at the same grade to the same department. The Committee of Ministers also approved an increase in the financial resources earmarked for stepping up co-operation activities concerning the Charter in the states concerned.

In December 2015, with the Turin Process in mind, the Committee of Ministers decided to set up a *European Social Cohesion Platform*, in the form of an ad hoc committee. The aim of this body is to strengthen the intergovernmental component of the strategy drawn up by the Secretary General of the Council of Europe to develop the Council of Europe's action in the social cohesion sector, in particular by promoting the Social Charter and the collective complaints procedure.

Under the proposed terms of reference for 2016-2017, the aim of this Platform will be to ensure the integration of social cohesion into all Council of Europe activities. The draft terms of reference of the Platform state that special attention will be given to ensuring that everyone has access to their social rights, as guaranteed by the Charter and other relevant instruments, in practice and without any discrimination, with a special emphasis on vulnerable groups and young people, taking account

16. <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168045ad98>

17. <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2864536&SecMode=1&DocId=2342520&Usage=2>

of the conclusions of the monitoring bodies concerned, including the European Committee of Social Rights. The Platform will meet once a year and will be open to all Council of Europe member states, bodies and institutions, including the Committee, and to all international organisations and to the other stakeholders concerned. The Secretary General has decided that the secretarial services for the Platform will be provided by the Department of the Social Charter, which has been given extra staff for this purpose.

In addition to these initial significant advances following the launching of the Turin Process, the Committee of Ministers and the Parliamentary Assembly have decided to continue their consideration of the position and functioning of the convention system of the Charter within the Council of Europe, and to do so while referring to the proposals set out in the General Report of the Turin Conference.

In this context, the Parliamentary Assembly began in September 2015 to prepare a political report on the Turin Process, an initial version of which was examined by its Social Affairs Committee in November 2015. This draft will be discussed by the Assembly in 2016 with view to the possible adoption of a recommendation to the Committee of Ministers and/or a resolution for the attention of Council of Europe member states.

Following Mr Nicoletti's address to the Committee of Ministers on 4 February 2015, the Committee invited its Rapporteur Group on Social and Health Questions (GR-SOC) to examine the General Report of the Turin Conference in the light of the 'Brussels Document'. To this end, an ad hoc meeting of the GR-SOC on the Charter and the Turin Process took place on 26 May 2015. At the meeting, the GR-SOC held an exchange of views on several aspects concerning the Turin Process with the Deputy Secretary General, Gabriella Battaini-Dragoni.

In view of the conclusions of that meeting and at the request of the GR-SOC, in the course of 2015 the Secretariat drew up proposals taking account of the fields of action mentioned in the Report of the Turin Conference, reflecting member states' priorities and concerns. The Committee of Ministers' discussion on these proposals is expected to continue in 2016.

After underlining the fact that "*the Turin process promotes the reinforcement and a greater acceptance of the normative system of the Charter, as well as a better implementation of the provisions of this key Council of Europe treaty*", the 2015 Report of the Secretary General of the Council of Europe on the State of Democracy, Human Rights and the Rule of Law in Europe¹⁸, expressly recommends that the follow up of the decisions and conclusions of the European Committee of Social Rights, as provided in the 2014 "Turin Process" Action Plan, be reinforced.

Finally, one of the initiatives taken in 2015 in the context of the Turin Process, was the launching by the Secretariat on 10 December – International Human Rights Day – of a new Council of Europe Social Charter website¹⁹. The setting up of this site is an initiative that is commensurate with the importance of the fundamental rights

18. <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2742676&SecMode=1&DocId=2263596&Usage=2>

19. <http://www.coe.int/socialcharter>

guaranteed by the Charter and which bears witness to the importance which the Council of Europe gives to asserting them on our continent. The Charter is now also present on the social networks.

In the course of 2015 other initiatives relating to the Council of Europe's institutional communication on the Charter have been launched in the context of the Turin Process; these initiatives, which are currently being carried out, will be completed within the framework of the Council of Europe Programme of Activities for 2016-2017.

4. Synergies with the European Union

Progress has also been made with regard to strengthening synergy between EU law and the Charter.

At its ministerial session in Brussels on 19 May 2015, the Committee of Ministers welcomed the advances made in co-operation between the Council of Europe and the European Union²⁰. In this context, it recommended "*furthering synergies between the EU and Council of Europe monitoring and advisory bodies, and between Council of Europe standards and EU legislation*" and underline the importance of the relationship between the Social Charter and EU law as one of the main strands of the Turin Process.

The European Parliament Resolution on the situation of fundamental rights in the European Union (2013-2014)²¹, which was adopted in plenary on 8 September 2015, makes several references to the European Social Charter and the case-law of the European Committee of Social Rights. The resolution underlines, among other things, the need to relaunch the process for EU accession to the Charter and calls on the European Commission to take concrete steps with regard to its acceptance and implementation.

When Thorbjørn Jagland, Secretary General of the Council of Europe, met with Frans Timmermans, First Vice-President of the European Commission, in Strasbourg on 26 November 2015, '*contact points*' were identified in the Secretariat of both the Council of Europe and the Commission. These '*contact points*' are designed to strengthen the synergy between the Charter and EU legislation and also take account of the initiative announced by the European Commission in its Communication of 27 October 2015 (COM(2015) 610 final) to establish a new pillar of social rights for the Euro-zone.

As recommended in the General Report of the Turin Conference, the establishment of such structures should provide the opportunity for regular exchanges with a view to ensuring greater consistency between the two normative systems concerned. These exchanges could also help to promote further ratifications of the revised Charter and acceptance of the collective complaints procedure, in particular by EU member states.

20. http://www.coe.int/t/der/docs/EU/2015cm66%20fin_fr.pdf

21. <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=FR&reference=P8-TA-2015-0286>

List of appendices

Appendix 1.

List of Members of the European Committee of Social Rights as of 29 January 2016

(in order of precedence²²)

| | Terme du mandat |
|--|-----------------|
| M. Giuseppe PALMISANO, President (Italian) | 31/12/2016 |
| Mme Monika SCHLACHTER, Vice-president (German) | 31/12/2018 |
| M. Petros STANGOS, Vice-president (Greek) | 31/12/2020 |
| M. Lauri LEPPIK, General Rapporteur (Estonian) | 31/12/2016 |
| M. Colm O'CONNOR, (Irish) | 31/12/2016 |
| Mme Birgitta NYSTRÖM (Swedish) | 31/12/2018 |
| Mme Elena MACHULSKAYA (Russian) | 31/12/2016 |
| Mme Karin LUKAS (Austrian) | 31/12/2016 |
| Mme Eliane CHEMLA (French) | 31/12/2018 |
| M. József HAJDÚ (Hungarian) | 31/12/2018 |
| M. Marcin WUJCZYK (Polish) | 31/12/2018 |
| Mme Krassimira SREDKOVA (Bulgarian) | 31/12/2020 |
| M. Raul CANOSA USERA (Spanish) | 31/12/2020 |
| Mme Marit FROGNER (Norwegian) | 31/12/2020 |
| M. François VANDAMME (Belgian) ²⁴ | 31/12/2020 |

22. Conformément à l'article 7 du règlement du Comité.

23. Prendra ses fonctions en mai 2015 après sa retraite du bureau du gouvernement

Appendix 2.

Signatures and ratifications of the 1961 Charter, its Protocols and the European Social Charter (revised) - at 1st January 2016

| Member States | European Social Charter 1961 STE 035 | | Additional Protocol 1988 STE 128 | | Amending Protocol 1991 STE 142 | | Collective complaints Protocol 1995 STE 158 | | Revised European Social Charter 1996 STE 163 | |
|---------------------------|---|--------------|--|--------------|--------------------------------------|--------------|--|--------------|--|--------------|
| | Signature | Ratification | Signature | Ratification | Signature | Ratification | Signature | Ratification | Signature | Ratification |
| Albania | (2) | (2) | (3) | (3) | (2) | (2) | (2) | (2) | 21/9/98 | 14/11/02 |
| Andorra | (2) | (2) | (3) | (3) | (2) | (2) | (2) | (2) | 4/11/00 | 12/11/04 |
| Armenia | (2) | (2) | (3) | (3) | (2) | (2) | (2) | (2) | 18/10/01 | 21/1/04 |
| Austria | 22/7/63 | 29/10/69 | 4/12/90 | — | 7/5/92 | 13/7/95 | (2) | (2) | 7/5/99 | 20/5/11 |
| Azerbaijan | (2) | (2) | (3) | (3) | (2) | (2) | (2) | (2) | 18/10/01 | 2/9/04 |
| Belgium | 18/10/61 | 16/10/90 | 20/5/92 | 23/6/03 | 22/10/91 | 21/9/00 | 14/5/96 | 23/6/03 | 3/5/96 | 2/3/04 |
| Bosnia and Herzegovina | (2) | (2) | (3) | (3) | (2) | (2) | (2) | (2) | 11/5/04 | 7/10/08 |
| Bulgaria | (2) | (2) | (3) | (3) | (2) | (2) | (4) | (4) | 21/9/98 | 7/6/00 |
| Croatia | 8/3/99 | 26/2/03 | 26/2/03 | 26/2/03 | 8/3/99 | 26/2/03 | 8/3/99 | 26/2/03 | 6/11/09 | — |
| Cyprus | 22/5/67 | 7/3/68 | (3) | (3) | 21/10/91 | 1/6/93 | 9/11/95 | 6/8/96 | 3/5/96 | 27/9/00 |
| Czech Republic | 27/5/92* | 3/11/99 | 17/11/99 | 17/11/99 | 27/5/92* | 17/11/99 | 26/2/02 | 4/4/12 | 4/11/00 | — |
| Denmark | 18/10/61 | 3/3/65 | 27/8/96 | 27/8/96 | — | *** | 9/11/95 | — | 3/5/96 | — |
| Estonia | (2) | (2) | (3) | (3) | (2) | (2) | (2) | (2) | 4/5/98 | 11/9/00 |
| Finland | 9/2/90 | 29/4/91 | 9/2/90 | 29/4/91 | 16/3/92 | 18/8/94 | 17/7/98 | 17/7/98 | 3/5/96 | 21/6/02 |
| France | 9/3/73 | 18/10/61 | 22/6/89 | (3) | 21/10/91 | 21/10/91 | 9/11/95 | 7/5/99 | 3/5/96 | 7/5/99 |
| Georgia | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 30/6/00 | 22/8/05 |

| Member States | European Social Charter 1961 STE 035 | | Additional Protocol 1988 STE 128 | | Amending Protocol 1991 STE 142 | | Collective complaints Protocol 1995 STE 158 | | Revised European Social Charter 1996 STE 163 | |
|------------------------|---|--------------|--|--------------|--------------------------------------|--------------|--|--------------|--|--------------|
| | Signature | Ratification | Signature | Ratification | Signature | Ratification | Signature | Ratification | Signature | Ratification |
| Germany | 18/10/61 | 27/1/65 | 5/5/88 | — | — | *** | (1) | — | 29/6/07 | — |
| Greece | 18/10/61 | 6/6/84 | 5/5/88 | 18/6/98 | 29/11/91 | 12/9/96 | 18/6/98 | 18/6/98 | 3/5/96 | — |
| Hungry | 13/12/91 | 8/7/99 | 7/10/04 | 1/6/05 | 13/12/91 | 4/2/04 | 7/10/04 | — | 7/10/04 | 20/4/09 |
| Island | 15/1/76 | 15/1/76 | 5/5/88 | — | 12/12/01 | 21/2/02 | (1) | — | 4/11/98 | — |
| Ireland | 18/10/61 | 7/10/64 | (3) | (3) | 14/5/97 | 14/5/97 | 4/11/00 | 4/11/00 | 4/11/00 | 4/11/00 |
| Italy | 18/10/61 | 22/10/65 | 5/5/88 | 26/5/94 | 21/10/91 | 27/1/95 | 9/11/95 | 3/11/97 | 3/5/96 | 5/7/99 |
| Latvia | 29/5/97 | 31/1/02 | 29/5/97 | — | 29/5/97 | 9/12/03 | (1) | — | 29/5/07 | 26/03/13 |
| Liechtenstein | 9/10/91 | — | — | — | — | — | — | — | — | — |
| Lithuania | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 8/9/97 | 29/6/01 |
| Luxembourg | 18/10/61 | 10/10/91 | 5/5/88 | — | 21/10/91 | *** | (1) | — | 11/2/98 | — |
| Malta | 26/5/88 | 4/10/88 | (3) | (3) | 21/10/91 | 16/2/94 | (2) | — | 27/7/05 | 27/7/05 |
| Republic of Moldova | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 8/11/01 | 8/11/01 |
| Monaco | (1) | — | (1) | — | (1) | — | (1) | — | 5/10/04 | — |
| Montenegro | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 22/3/05** | 3/3/10 |
| Pays-Bas | 18/10/61 | 22/4/80 | 14/6/90 | 5/8/92 | 21/10/91 | 1/6/93 | 23/1/04 | 3/5/06 | 23/1/04 | 3/5/06 |
| Norway | 18/10/61 | 26/10/62 | 10/12/93 | 10/12/93 | 21/10/91 | 21/10/91 | 20/3/97 | 20/3/97 | 7/5/01 | 7/5/01 |
| Poland | 26/11/91 | 25/6/97 | (1) | — | 18/4/97 | 25/6/97 | (1) | — | 25/10/05 | — |
| Portugal | 1/6/82 | 30/9/91 | (3) | (3) | 24/2/92 | 8/3/93 | 9/11/95 | 20/3/98 | 3/5/96 | 30/5/02 |
| Romania | 4/10/94 | (2) | (3) | (3) | (2) | (2) | (2) | — | 14/5/97 | 7/5/99 |
| Russian Federation | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 14/9/00 | 16/10/09 |

| Member States | European Social Charter 1961 STE 035 | | Additional Protocol 1988 STE 128 | | Amending Protocol 1991 STE 142 | | Collective complaints Protocol 1995 STE 158 | | Revised European Social Charter 1996 STE 163 | |
|---|---|--------------|--|--------------|--------------------------------------|--------------|--|--------------|--|--------------|
| | Signature | Ratification | Signature | Ratification | Signature | Ratification | Signature | Ratification | Signature | Ratification |
| Saint-Marin | (1) | — | (1) | — | (1) | — | (1) | — | 18/10/01 | — |
| Serbia | (2) | (2) | (3) | (3) | (2) | (2) | (2) | — | 22/3/05* | 14/9/09 |
| Slovak Republic | 27/5/92* | 22/6/98 | 27/5/92* | 22/6/98 | 27/5/92* | 22/6/98 | 18/11/99 | — | 18/11/99 | 23/4/09 |
| Slovenia | 11/10/97 | (2) | 11/10/97 | (3) | 11/10/97 | (2) | 11/10/97 | (4) | 11/10/97 | 7/5/99 |
| Spain | 27/4/78 | 6/5/80 | 5/5/88 | 24/1/00 | 21/10/91 | 24/1/00 | (1) | — | 23/10/00 | — |
| Sweden | 18/10/61 | 17/12/62 | 5/5/88 | 5/5/89 | 21/10/91 | 18/3/92 | 9/11/95 | 29/5/98 | 3/5/96 | 29/5/98 |
| Suisse | 6/5/76 | — | — | — | — | — | — | — | — | — |
| "The former Yugoslav Republic of Macedonia" | 5/5/98 | 31/3/05 | 5/5/98 | — | 5/5/98 | 31/3/05 | (2) | — | 27/5/09 | 6/1/12 |
| Turkey | 18/10/61 | 24/11/89 | 5/5/98 | (3) | 6/10/04 | 10/6/09 | (2) | — | 6/10/04 | 27/6/07 |
| Ukraine | 2/5/96 | (2) | (3) | (3) | (2) | (2) | (2) | — | 7/5/99 | 21/12/06 |
| United Kingdom | 18/10/61 | 11/7/62 | (1) | — | 21/10/91 | *** | (1) | — | 7/11/97 | — |

* Date of signature by the Czech and Slovak Federal Republic.

** Date of signature by the State Union of Serbia and Montenegro.

*** State whose ratification is necessary for the entry into force of the protocol.

Appendix 3.

Acceptance of provisions of the Revised European Social Charter (1996) - *Acceptation des dispositions de la Charte sociale européenne révisée (1996)*

accepted/ accepté not accepted/ non accepté

| Articles 1-4 Para. | Article 1 | | | | Article 2 | | | | | | | Article 3 | | | | Article 4 | | | | |
|--|-----------|---|---|---|-----------|---|---|---|---|---|---|-----------|---|---|---|-----------|---|---|---|---|
| | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 1 | 2 | 3 | 7 | 1 | 2 | 3 | 4 | 5 |
| Albania/Albanie | | | | | | | | | | | | | | | | | | | | |
| Andorra/Andorre | | | | | | | | | | | | | | | | | | | | |
| Armenia/Arménie | | | | | | | | | | | | | | | | | | | | |
| Austria/Autriche | | | | | | | | | | | | | | | | | | | | |
| Azerbaijan/ Azerbaïdjan | | | | | | | | | | | | | | | | | | | | |
| Belgium/Belgique | | | | | | | | | | | | | | | | | | | | |
| Bosnia and Herzegovina/ Bosnie-Herzégovine | | | | | | | | | | | | | | | | | | | | |
| Bulgaria/Bulgarie | | | | | | | | | | | | | | | | | | | | |
| Cyprus/Chypre | | | | | | | | | | | | | | | | | | | | |
| Estonia/Estonie | | | | | | | | | | | | | | | | | | | | |
| Finland/Finlande | | | | | | | | | | | | | | | | | | | | |
| France | | | | | | | | | | | | | | | | | | | | |
| Georgia/Géorgie | | | | | | | | | | | | | | | | | | | | |
| Hungary/Hongrie | | | | | | | | | | | | | | | | | | | | |
| Ireland/Irlande | | | | | | | | | | | | | | | | | | | | |
| Italy/Italie | | | | | | | | | | | | | | | | | | | | |
| Latvia/Lettonie | | | | | | | | | | | | | | | | | | | | |
| Lithuania/Lituanie | | | | | | | | | | | | | | | | | | | | |
| Malta/Malte | | | | | | | | | | | | | | | | | | | | |
| Republic of Moldova/ République de Moldova | | | | | | | | | | | | | | | | | | | | |
| Montenegro/ Monténégro | | | | | | | | | | | | | | | | | | | | |
| Netherlands/Pays-Bas ²⁵ | | | | | | | | | | | | | | | | | | | | |
| Norway/Norvège | | | | | | | | | | | | | | | | | | | | |
| Portugal | | | | | | | | | | | | | | | | | | | | |
| Romania/Roumanie | | | | | | | | | | | | | | | | | | | | |

24. Ratification by the Kingdom in Europe. Aruba, Curaçao and Sint Maarten, as well as the special municipalities of Bonaire, Saba and Sint Eustatius remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the Additional Protocol/*Ratification par le Royaume en Europe. Aruba, Curaçao et Saint-Martin, ainsi que les municipalités spéciales de Bonaire, Saba et Saint-Eustache restent liées par les articles 1, 5, 6 et 16 de la Charte de 1961 et de l'Article 1 du Protocole additionnel.*

| <i>Articles 1-4</i> <i>Para.</i> | Article 1 | | | | Article 2 | | | | | | | Article 3 | | | | Article 4 | | | | |
|---|-----------|---|---|---|-----------|---|---|---|---|---|---|-----------|---|---|---|-----------|---|---|---|---|
| | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 1 | 2 | 3 | 7 | 1 | 2 | 3 | 4 | 5 |
| Russian Federation / Fédération de Russie | | | | | | | | | | | | | | | | | | | | |
| Serbia/Serbie | | | | | | | | | | | | | | | | | | | | |
| Slovak Republic/ République Slovaque | | | | | | | | | | | | | | | | | | | | |
| Slovenia/Slovénie | | | | | | | | | | | | | | | | | | | | |
| Sweden/Suède | | | | | | | | | | | | | | | | | | | | |
| "The former Yugoslav Republic of Macedonia"/"L'ex- République yougo- slave de Macédoine | | | | | | | | | | | | | | | | | | | | |
| Turkey/Turquie | | | | | | | | | | | | | | | | | | | | |
| Ukraine | | | | | | | | | | | | | | | | | | | | |

| <i>Articles 5-9</i> <i>Para.</i> | Art. | Article 6 | | | | Article 7 | | | | | | | | | | Article 8 | | | | | Art. |
|--|------|-----------|---|---|---|-----------|---|---|---|---|---|---|---|---|----|-----------|---|---|---|---|------|
| | 5 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 1 | 2 | 3 | 4 | 5 | 9 |
| Albania/Albanie | | | | | | | | | | | | | | | | | | | | | |
| Andorra/Andorre | | | | | | | | | | | | | | | | | | | | | |
| Armenia/Arménie | | | | | | | | | | | | | | | | | | | | | |
| Austria/Autriche | | | | | | | | | | | | | | | | | | | | | |
| Azerbaijan/ Azerbaïdjan | | | | | | | | | | | | | | | | | | | | | |
| Belgium/Belgique | | | | | | | | | | | | | | | | | | | | | |
| Bosnia and Herzegovina/ Bosnie-Herzégovine | | | | | | | | | | | | | | | | | | | | | |
| Bulgaria/Bulgarie | | | | | | | | | | | | | | | | | | | | | |
| Cyprus/Chypre | | | | | | | | | | | | | | | | | | | | | |
| Estonia/Estonie | | | | | | | | | | | | | | | | | | | | | |
| Finland/Finlande | | | | | | | | | | | | | | | | | | | | | |
| France | | | | | | | | | | | | | | | | | | | | | |
| Georgia/Géorgie | | | | | | | | | | | | | | | | | | | | | |
| Hungary/Hongrie | | | | | | | | | | | | | | | | | | | | | |
| Ireland/Irlande | | | | | | | | | | | | | | | | | | | | | |
| Italy/Italie | | | | | | | | | | | | | | | | | | | | | |
| Latvia/Lettonie | | | | | | | | | | | | | | | | | | | | | |
| Lithuania/Lituanie | | | | | | | | | | | | | | | | | | | | | |
| Malta/Malte | | | | | | | | | | | | | | | | | | | | | |
| Republic of Moldova/République de Moldova | | | | | | | | | | | | | | | | | | | | | |
| Montenegro/ Monténégro | | | | | | | | | | | | | | | | | | | | | |

| <i>Articles 5-9</i> <i>Para.</i> | Art. | Article 6 | | | | Article 7 | | | | | | | | | | Article 8 | | | | | Art. | |
|--|------|-----------|---|---|---|-----------|---|---|---|---|---|---|---|---|----|-----------|---|---|---|---|------|--|
| | 5 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 1 | 2 | 3 | 4 | 5 | 9 | |
| Netherlands/ Pays-Bas ²⁶ | | | | | | | | | | | | | | | | | | | | | | |
| Norway/Norvège | | | | | | | | | | | | | | | | | | | | | | |
| Portugal | | | | | | | | | | | | | | | | | | | | | | |
| Romania/Roumanie | | | | | | | | | | | | | | | | | | | | | | |
| Russian Federation / Fédération de Russie | | | | | | | | | | | | | | | | | | | | | | |
| Serbia/Serbie | | | | | | | | | | | | | | | | | | | | | | |
| Slovak Republic/ République Slovaque | | | | | | | | | | | | | | | | | | | | | | |
| Slovenia/Slovénie | | | | | | | | | | | | | | | | | | | | | | |
| Sweden/Suède | | | | | | | | | | | | | | | | | | | | | | |
| "The former Yugoslav Republic of Macedonia"/ "L'ex-République yougoslave de Macédoine | | | | | | | | | | | | | | | | | | | | | | |
| Turkey/Turquie | | | | | | | | | | | | | | | | | | | | | | |
| Ukraine/Ukraine | | | | | | | | | | | | | | | | | | | | | | |

| <i>Articles 10-15</i> <i>Para.</i> | Article 10 | | | | | Article 11 | | | Article 12 | | | | Article 13 | | | | Art. 14 | | Article 15 | | | |
|--|------------|---|---|---|---|------------|---|---|------------|---|---|---|------------|---|---|---|---------|---|------------|---|---|--|
| | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 1 | 2 | 1 | 2 | 3 | |
| Albania/Albanie | | | | | | | | | | | | | | | | | | | | | | |
| Andorra/Andorre | | | | | | | | | | | | | | | | | | | | | | |
| Armenia/Arménie | | | | | | | | | | | | | | | | | | | | | | |
| Austria/Autriche | | | | | | | | | | | | | | | | | | | | | | |
| Azerbaijan/ Azerbaïdjan | | | | | | | | | | | | | | | | | | | | | | |
| Belgium/Belgique | | | | | | | | | | | | | | | | | | | | | | |
| Bosnia and Herzegovina/ Bosnie-Herzégovine | | | | | | | | | | | | | | | | | | | | | | |
| Bulgaria/Bulgarie | | | | | | | | | | | | | | | | | | | | | | |
| Cyprus/Chypre | | | | | | | | | | | | | | | | | | | | | | |
| Estonia/Estonie | | | | | | | | | | | | | | | | | | | | | | |

25. Ratification by the Kingdom in Europe. Aruba, Curaçao and Sint Maarten, as well as the special municipalities of Bonaire, Saba and Sint Eustatius remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the Additional Protocol/Ratification par le Royaume en Europe. *Aruba, Curaçao et Saint-Martin, ainsi que les municipalités spéciales de Bonaire, Saba et Saint-Eustache restent liés par les articles 1, 5, 6 et 16 de la Charte de 1961 et de l'Article 1 du Protocole additionnel.*

26. With the exception of professional military personnel of the Serbian Army / *A l'exception des militaires de carrière de l'Armée serbe.*

| <i>Articles 10-15</i> | Article 10 | | | | | Article 11 | | | Article 12 | | | | Article 13 | | | | Art. 14 | | Article 15 | | | | |
|---|--------------|---|---|---|---|------------|---|---|------------|---|---|---|------------|---|---|---|---------|---|------------|---|---|---|--|
| | <i>Para.</i> | 1 | 2 | 3 | 4 | 5 | 1 | 2 | 3 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 1 | 2 | 1 | 2 | 3 | |
| Finland/Finlande | | | | | | | | | | | | | | | | | | | | | | | |
| France | | | | | | | | | | | | | | | | | | | | | | | |
| Georgia/Géorgie | | | | | | | | | | | | | | | | | | | | | | | |
| Hungary/Hongrie | | | | | | | | | | | | | | | | | | | | | | | |
| Ireland/Irlande | | | | | | | | | | | | | | | | | | | | | | | |
| Italy/Italie | | | | | | | | | | | | | | | | | | | | | | | |
| Latvia/Lettonie | | | | | | | | | | | | | | | | | | | | | | | |
| Lithuania/Lituanie | | | | | | | | | | | | | | | | | | | | | | | |
| Malta/Malte | | | | | | 28 | | | | | | | 29 | | | | | | | | | | |
| Republic of Moldova/ République de Moldova | | | | | | | | | | | | | | | | | | | | | | | |
| Montenegro/ Monténégro | | | | | | | | | | | | | | | | | | | | | | | |
| Netherlands/ Pays-Bas | | | | | | | | | | | | | | | | | | | | | | | |
| Norway/Norvège | | | | | | | | | | | | | | | | | | | | | | | |
| Portugal | | | | | | | | | | | | | | | | | | | | | | | |
| Romania/ Roumanie | | | | | | | | | | | | | | | | | | | | | | | |
| Russian Federation / Fédération de Russie | | | | | | | | | | | | | | | | | | | | | | | |
| Serbia/Serbie | | | | | | | | | | | | | | | | | | | | | | | |
| Slovak Republic/ République Slovaque | | | | | | | | | | | | | | | | | | | | | | | |
| Slovenia/Slovénie | | | | | | | | | | | | | | | | | | | | | | | |
| Sweden/Suède | | | | | | | | | | | | | | | | | | | | | | | |
| "The former Yugoslav Republic of Macedonia"/ "L'ex-République yougoslave de Macédoine" | | | | | | | | | | | | | | | | | | | | | | | |
| Turkey/Turquie | | | | | | | | | | | | | | | | | | | | | | | |
| Ukraine | | | | | | | | | | | | | | | | | | | | | | | |

27. Sub-paragraphs a. and d. accepted/ *Alinéas a. et d. acceptés.*

28. Sub-paragraph a. accepted/ *Alinéa a. accepté.*

| Articles 16-19 Para | Art. | Art. 17 | | Article 18 | | | | Article 19 | | | | | | | | | | | |
|---|------|---------|---|------------|---|---|---|------------|---|---|----|---|---|---|---|---|----|----|----|
| | 16 | 1 | 2 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| Albania/Albanie | | | | | | | | | | | | | | | | | | | |
| Andorra/Andorre | | | | | | | | | | | | | | | | | | | |
| Armenia/Arménie | | | | | | | | | | | | | | | | | | | |
| Austria/Autriche | | | | | | | | | | | | | | | | | | | |
| Azerbaijan/Azerbaïdjan | | | | | | | | | | | | | | | | | | | |
| Belgium/Belgique | | | | | | | | | | | | | | | | | | | |
| Bosnia and Herzegovina/ Bosnie-Herzégovine | | | | | | | | | | | | | | | | | | | |
| Bulgaria/Bulgarie | | | | | | | | | | | | | | | | | | | |
| Cyprus/Chypre | | | | | | | | | | | | | | | | | | | |
| Estonia/Estonie | | | | | | | | | | | | | | | | | | | |
| Finland/Finlande | | | | | | | | | | | | | | | | | | | |
| France | | | | | | | | | | | | | | | | | | | |
| Georgia/Géorgie | | | | | | | | | | | | | | | | | | | |
| Hungary/Hongrie | | | | | | | | | | | | | | | | | | | |
| Ireland/Irlande | | | | | | | | | | | | | | | | | | | |
| Italy/Italie | | | | | | | | | | | | | | | | | | | |
| Latvia/Lettonie | | | | | | | | | | | | | | | | | | | |
| Lithuania/Lituanie | | | | | | | | | | | | | | | | | | | |
| Malta/Malte | | | | | | | | | | | | | | | | | | | |
| Republic of Moldova/ République de Moldova | | | | | | | | | | | | | | | | | | | |
| Montenegro/Monténégro | | | | | | | | | | | | | | | | | | | |
| Netherlands/Pays-Bas | | | | | | | | | | | | | | | | | | | |
| Norway/Norvège | | | | | | | | | | | | | | | | | | | |
| Portugal | | | | | | | | | | | | | | | | | | | |
| Romania/Roumanie | | | | | | | | | | | | | | | | | | | |
| Russian Federation/ Fédération de Russie | | | | | | | | | | | | | | | | | | | |
| Serbia/Serbie | | 30 | | | | | | | | | | | | | | | | | |
| Slovak Republic/ République Slovaque | | | | | | | | | | | 31 | | | | | | | | |
| Slovenia/Slovénie | | | | | | | | | | | | | | | | | | | |
| Sweden/Suède | | | | | | | | | | | | | | | | | | | |
| "The former Yugoslav Republic of Macedonia"/ "L'ex-République you- goslave de Macédoine" | | | | | | | | | | | | | | | | | | | |
| Turkey/Turquie | | | | | | | | | | | | | | | | | | | |
| Ukraine | | | | | | | | | | | | | | | | | | | |

29. Sub-paragraphs 1b and 1c accepted / *Alinéas 1b et 1c acceptés*

30. Sub-paragraphs a. and b. accepted / *Alinéas a. and b. acceptés*

| Articles 20-31 Para. | Art. | Art. | Art. | Art. | Art. | Art. | Art. 26 | | Art. 27 | | | Art. | Art. | Art. | Article 31 | | |
|---|------|------|------|------|------|------|---------|---|---------|----|---|------|------|------|------------|---|---|
| | 20 | 21 | 22 | 23 | 24 | 25 | 1 | 2 | 1 | 2 | 3 | 28 | 29 | 30 | 1 | 2 | 3 |
| Albania/Albanie | | | | | | | | | | | | | | | | | |
| Andorra/Andorre | | | | | | | | | | | | | | | | | |
| Armenia/Arménie | | | | | | | | | | | | | | | | | |
| Austria/Autriche | | | | | | | | | | | | | | | | | |
| Azerbaijan/Azerbaïdjan | | | | | | | | | | | | | | | | | |
| Belgium/Belgique | | | | | | | | | | | | | | | | | |
| Bosnia and Herzegovina/ Bosnie-Herzégovine | | | | | | | | | | | | | | | | | |
| Bulgaria/Bulgarie | | | | | | | | | | | | | | | | | |
| Cyprus/Chypre | | | 32 | | | | | | | | | | | | | | |
| Estonia/Estonie | | | | | | | | | | | | | | | | | |
| Finland/Finlande | | | | | | | | | | | | | | | | | |
| France | | | | | | | | | | | | | | | | | |
| Georgia/Géorgie | | | | | | | | | | | | | | | | | |
| Hungary/Hongrie | | | | | | | | | | | | | | | | | |
| Ireland/Irlande | | | | | | | | | | 33 | | | | | | | |
| Italy/Italie | | | | | | | | | | | | | | | | | |
| Latvia/Lettonie | | | | | | | | | | | | | | | | | |
| Lithuania/Lituanie | | | | | | | | | | | | | | | | | |
| Malta/Malte | | | | | | | | | | | | | | | | | |
| Republic of Moldova/ République de Moldova | | | | | | | | | | | | | | | | | |
| Montenegro/ Monténégro | | | | | | | | | | 34 | | | | | | | |
| Netherlands/Pays-Bas | | | | | | | | | | | | | | | | | |
| Norway/Norvège | | | | | | | | | | 35 | | | | | | | |
| Portugal | | | | | | | | | | | | | | | | | |
| Romania/Roumanie | | | | | | | | | | | | | | | | | |
| Russian Federation/ Fédération de Russie | | | | | | | | | | | | | | | | | |
| Serbia/Serbie | | | | | | | | | | | | | | | | | |
| Slovak Republic/ République Slovaque | | | | | | | | | | | | | | | | | |
| Slovenia/Slovénie | | | | | | | | | | | | | | | | | |
| Sweden/Suède | | | | | | | | | | | | | | | | | |
| "The former Yugoslav Republic of Macedonia"/ "L'ex-République you- goslave de Macédoine" | | | | | | | | | | | | | | | | | |
| Turkey/Turquie | | | | | | | | | | | | | | | | | |
| Ukraine | | | | | | | | | | | | | | | | | |

31. Sub-paragraph b. accepted / *Alinéa b. accepté*

32. Sub-paragraphs a. and b. accepted / *Alinéas a. et b. acceptés*

33. Sub-paragraph a. accepted / *Alinéa a. accepté*

34. Sub-paragraph c. accepted / *Alinéa c. accepté*

Appendix 4.

Number of accepted provisions by year since 1962

| Year of ratification | Charter 1961 | | Revised Charter 1996 | | | Total of the accepted provisions |
|----------------------|-------------------|---------------------|----------------------|--------|---------------------|----------------------------------|
| | States | Accepted provisions | Total | States | Accepted provisions | |
| 1962 | 1. United Kingdom | 60 | 60 | | | 60 |
| | 2. Norway | 60 | 120 | | | 120 |
| | 3. Sweden | 66 | 186 | | | 186 |
| 1963 | | | 186 | | | 186 |
| 1964 | 4. Ireland | 63 | 249 | | | 249 |
| 1965 | 5. Germany | 67 | 316 | | | 316 |
| | 6. Denmark | 49 | 365 | | | 365 |
| | 7. Italy | 76 | 441 | | | 441 |
| 1966 | | | 441 | | | 441 |
| 1967 | | | 441 | | | 441 |
| 1968 | 8. Cyprus | 43 | 484 | | | 484 |
| 1969 | 9. Austria | 62 | 546 | | | 546 |
| 1970 | | | 546 | | | 546 |
| 1971 | | | 546 | | | 546 |
| 1972 | | | 546 | | | 546 |
| 1973 | | | 546 | | | 546 |
| 1974 | 10. France | 72 | 618 | | | 618 |
| 1975 | | | 618 | | | 618 |
| 1976 | 11. Iceland | 41 | 659 | | | 659 |
| 1977 | | | 659 | | | 659 |

| Year of ratification | Charter 1961 | | | Revised Charter 1996 | | | Total of the accepted provisions |
|----------------------|-----------------|---------------------|-------|----------------------|---------------------|-------|----------------------------------|
| | States | Accepted provisions | Total | States | Accepted provisions | Total | |
| 1978 | | | 659 | | | | 659 |
| 1979 | | | 659 | | | | 659 |
| 1980 | 12. Netherlands | 75 | 734 | | | | 734 |
| | 13. Spain | 76 | 810 | | | | 810 |
| 1981 | | | 810 | | | | 810 |
| 1982 | | | 810 | | | | 810 |
| 1983 | | | 810 | | | | 810 |
| 1984 | 14. Greece | 71 | 881 | | | | 881 |
| 1985 | | | 881 | | | | 881 |
| 1986 | | | 881 | | | | 881 |
| 1987 | | | 881 | | | | 881 |
| 1988 | 15. Malta | 55 | 936 | | | | 936 |
| 1989 | 16. Turkey | 46 | 982 | | | | 982 |
| 1990 | 17. Belgium | 72 | 1054 | | | | 1054 |
| 1991 | 18. Finland | 66 | 1120 | | | | 1120 |
| | 19. Portugal | 72 | 1192 | | | | 1192 |
| | 20. Luxembourg | 69 | 1261 | | | | 1261 |
| 1992 | | | 1261 | | | | 1261 |
| 1993 | | | 1261 | | | | 1261 |
| 1994 | | | 1261 | | | | 1261 |
| 1995 | | | 1261 | | | | 1261 |
| 1996 | | | 1261 | | | | 1261 |
| 1997 | 21. Poland | 58 | 1319 | | | | 1319 |

| Year of ratification | Charter 1961 | | | Revised Charter 1996 | | | Total of the accepted provisions |
|----------------------|---------------------|---------------------|-------|-------------------------|---------------------|-------|----------------------------------|
| | States | Accepted provisions | Total | States | Accepted provisions | Total | |
| 1998 | | -66 | 1253 | 1. Sweden | 83 | 83 | 1336 |
| | 22. Slovak Republic | 64 | 1317 | | | 83 | 1400 |
| 1999 | | -72 | 1245 | 2. France | 98 | 181 | 1426 |
| | | -76 | 1169 | 3. Italy | 97 | 278 | 1567 |
| | 23. Hungary | 44 | | | | | |
| | 24. Czech Republic | 56 | 1345 | 4. Romania | 65 | 343 | 1688 |
| | | -76 | 1269 | 5. Slovenia | 95 | 438 | 1707 |
| 2000 | | | 1269 | 6. Bulgaria | 61 | 499 | 1768 |
| | | | 1269 | 7. Estonia | 79 | 578 | 1847 |
| | | -43 | 1226 | 8. Cyprus | 63 | 641 | 1867 |
| | | -63 | 1163 | 9. Ireland | 93 | 734 | 1897 |
| 2001 | | -60 | 1103 | 10. Norway | 81 | 815 | 1918 |
| | | | 1103 | 11. Lithuania | 86 | 901 | 2004 |
| | | | 1103 | 12. Republic of Moldova | 63 | 964 | 2067 |
| 2002 | | -72 | 1031 | 13. Portugal | 98 | 1062 | 2093 |
| | | -66 | 965 | 14. Finland | 89 | 1151 | 2116 |
| | 25. Latvia | 25 | 990 | | | 1151 | 2141 |
| | | | 990 | 15. Albania | 64 | 1215 | 2205 |
| 2003 | 26. Croatia | 43 | 1033 | | | | 1033 |
| 2004 | | | 1033 | 16. Armenia | 67 | 1282 | 2315 |
| | | -72 | 961 | 17. Belgium | 87 | 1369 | 2330 |
| | | | | 18. Azerbaijan | 47 | 1416 | 1416 |
| | | | 961 | 19. Andorra | 75 | 1491 | 2452 |

| Year of ratification | Charter 1961 | | | Revised Charter 1996 | | | Total of the accepted provisions |
|----------------------|---|---------------------|-------|---|---------------------|-------|----------------------------------|
| | States | Accepted provisions | Total | States | Accepted provisions | Total | |
| 2005 | 27. The former Yugoslav Republic of Macedonia | 41 | 1002 | | | 1491 | 2493 |
| | | -55 | 947 | 20. Malta | | 72 | 2510 |
| | | -75 | 872 | 21. Georgia | | 63 | 1626 |
| 2006 | | | | 22. Netherlands | | 97 | 2595 |
| | | -46 | 826 | 23. Ukraine | | 74 | 1714 |
| 2007 | | -44 | 782 | 24. Turkey | | 91 | 2714 |
| | | | | 25. Hungary | | 60 | 2730 |
| | | | | Bulgaria | | 1 | 1949 |
| 2008 | | | | 26. Bosnia and Herzegovina | | 51 | 2000 |
| 2009 | | -64 | 718 | 27. Slovak Republic | | 86 | 2804 |
| | | | | 28. Serbia | | 88 | 2174 |
| | | | | 29. Russian Federation | | 67 | 2241 |
| 2010 | | | | 30. Montenegro | | 66 | 2307 |
| 2011 | | -62 | 656 | 31. Austria | | 76 | 3039 |
| | | | | Cyprus | | 9 | 2392 |
| 2012 | | -41 | 615 | 32. The former Yugoslav Republic of Macedonia | | 63 | 2455 |
| | | | | Estonia | | 8 | 3078 |
| 2013 | | -25 | 590 | 33. Latvia | | 90 | 3143 |
| 2015 | | | | Belgium | | 4 | 3147 |

(*) By order of ratification, States Parties to the Revised Charter (on a grey background with the former States Parties to the ESC in *italics*), and States Parties to the 1961 Charter (on a white background).

Appendix 5.

Complaints registered in 2015

The Committee registered the following six complaints in 2015:

European Roma and Travellers Forum (ERTF) v. France

Complaint no. 119/2015

Confédération Générale du Travail Force Ouvrière (CGT-FO) v. France

Complaint no. 118/2015

Transgender-Europe and ILGA-Europe v. Czech Republic

Complaint no. 117/2015

Matica hrvatskih sindikata v. Croatia

Complaint no. 116/2015

European Federation of Employees in Public Services (EUROFEDOP) v. Greece

Complaint no. 115/2015

Complaints pending or under consideration

On 31 December 2015, the following 19 complaints were currently on the Committee's agenda:

European Roma and Travellers Forum (ERTF) v. France

Complaint no. 119/2015

The complaint, registered on 19 October 2015, relates to Articles 17§2 (right of children and young persons to appropriate social, legal and economic protection – free primary and secondary education – regular attendance at school) and 10§5 (right to vocational training – full use of facilities available), as well as Articles 16 (right to appropriate social, legal and economic protection for the family), 30 (right to protection against poverty and social exclusion) and 31 (right to housing), read in conjunction with Article E (non-discrimination) of the Revised Charter. The complainant organisation, ERTF, alleges that France fails to give effective protection to the rights of Roma children, in particular as regards their access to education and vocational training.

Confédération Générale du Travail Force Ouvrière (CGT-FO) v. France

Complaint no. 118/2015

The complaint, registered on 29 April 2015, relates to Article 6 (the right to bargain collectively) of the Revised European Social Charter. CGT-FO alleges that the conditions imposed by French legislation on supplementary social protection of employees, and more specifically on the choice of an insuring body, do not comply with Article 6§2 of the European Social Charter..

The European Committee of Social Rights declared the complaint admissible on 9 September 2015.

Transgender-Europe and ILGA-Europe v. Czech Republic

Complaint no. 117/2015

The complaint, registered on 30 March 2015, relates to Article 11 (the right to protection of health), read alone or in conjunction with the non-discrimination principle in the Preamble of the European Social Charter (“the 1961 Charter”). The complainant organisations, Transgender Europe and ILGA-Europe, allege that, in the Czech Republic, the legal requirement of sterilisation imposed on transgender people wishing to change their personal documents so that they reflect their gender identity is in breach of the above mentioned provisions of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 9 September 2015.

Matica hrvatskih sindikata v. Croatia

Complaint no. 116/2015

The complaint, registered on 24 March 2015, relates to Articles 5 (the right to organise) and 6 (the right to bargain collectively) of the European Social Charter (“the 1961 Charter”). The complainant organisation, MATICA, the Association of Croatian public sector unions, alleges that Act No. 143/2012 on withdrawal of certain substantive rights of persons employed in public services, brought into force by the Government of Croatia on 20 December 2012, was enacted in violation of the above provisions of the Charter.

The European Committee of Social Rights declared the complaint admissible on 9 September 2015.

European Federation of Employees in Public Services (EUROFEDOP) v. Greece

Complaint no. 115/2015

The complaint, registered on 12 March 2015, relates to Articles 1§2 (prohibition of forced labour) and 18§4 (the right of nationals to leave the country) of the 1961 Social Charter. The complainant organisation, the European Federation of Employees in Public Services (EUROFEDOP), alleges that regulations concerning the length of compulsory service imposed on medical officer-doctors of the armed forces in Greece, pursuant to Greek Law No 3257/2004, violate the above mentioned provisions of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 9 September 2015.

European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France

Complaint no. 114/2015

The complaint, registered on 27 February 2015, relates to Articles 7 (right of children and young persons to protection), 11 (right to health), 13 (right to social and medical assistance), 14 (right to benefit from social welfare services), 17 (right of children and young persons to appropriate social, legal and economic protection), 30 (right to protection against poverty and social exclusion) and 31 (right to housing), read

alone or in conjunction with the non-discrimination clause in Article E of the Revised European Social Charter. The complainant organisation alleges that France fails to fulfil its obligations under the above mentioned provisions of the Charter as regards the accommodation and care of foreign unaccompanied minors.

The European Committee of Social Rights declared the complaint admissible on 30 June 2015.

Unione Italiana del Lavoro U.I.L. Scuola – Sicilia v. Italy

Complaint no. 113/2014

The complaint, registered on 14 November 2014, relates to Articles 12 (the right to social security) and 25 (the right of workers to the protection of their claims in the event of the insolvency of their employer), in combination with the non-discrimination clause in section E of the Revised European Social Charter. The complainant trade union alleges that under the Italian regulations on social protection - particularly joint ministerial decree no. 83473 of 1 August 2014 – only companies are eligible for assistance paid by the *Cassa integrazione guadagni* (redundancy fund), thus excluding training bodies established in the form of non-profit-making associations, in violation of the aforementioned provisions of the Charter.

On 9 September 2015, the European Committee of Social Rights declared the complaint admissible, by 10 votes to 3, and decided unanimously to implement the immediate measures procedure.

European Organisation of Military Associations (EUROMIL) v. Ireland

Complaint no. 112/2014

The complaint, registered on 4 November 2014, relates to Articles 5 (the right to organise) and 6 (the right to bargain collectively) of the Revised European Social Charter. The complainant organisation, EUROMIL, alleges that defence forces' representative associations in Ireland do not have full trade union rights, including the right to join an umbrella organisation, in breach of the above mentioned provisions.

The European Committee of Social Rights declared the complaint admissible on 30 June 2015.

Greek General Confederation of Labour (GSEE) v. Greece

Complaint no. 111/2014

The complaint, registered on 26 September 2014, concerns Articles 1 (the right to work), 2 (the right to just conditions of work), 4 (the right to a fair remuneration) and 7 (the right of children and young persons to protection) of the 1961 Charter, as well as Article 3 of the 1988 Additional Protocol (the right to take part in the determination and improvement of working conditions and the working environment). The complainant trade union, GSEE, alleges that some of the new legislation enacted as part of the austerity measures adopted in Greece during the economic and financial crisis affects workers' rights in a manner that is in breach of the Charter.

The European Committee of Social Rights declared the complaint admissible on 19 May 2015.

International Federation for Human Rights (FIDH) v. Ireland

Complaint no. 110/2014

The complaint, registered on 18 July 2014, relates to Articles 11 (the right to protection of health), 16 (right of the family to social, legal and economic protection), 17 (right of children and young persons to social, legal and economic protection) and 30 (right to protection against poverty and social exclusion) of the Revised European Social Charter, read alone or in conjunction with the non-discrimination clause in Article E of the Revised European Social Charter. The complainant organisation, FIDH, alleges that Irish law, policy and practices on social housing do not comply with European housing, social protection and anti-discrimination standards, in breach of the above mentioned provisions.

The European Committee of Social Rights declared the complaint admissible on 17 March 2015.

Mental Disability Advocacy Centre (MDAC) v. Belgium

Complaint no. 109/2014

The complaint, registered on 30 April 2014, relates to Articles 15 (right of persons with disabilities to independence, social integration and participation in the life of the community) and 17 (right of children and young persons to social, legal and economic protection) of the Revised European Social Charter. The complaint alleges that Belgium has failed to provide education and training for children with intellectual and mental disabilities who are denied access to mainstream education and to the supports necessary to ensure such inclusion, in violation of the above mentioned provisions.

Finnish Society of Social Rights v. Finland

Complaint no. 108/2014

The complaint, registered on 29 April 2014, relates to Article 12 (right to social security) of the Revised European Social Charter. The complainant organisation alleges that, in seeking continuously to erode unemployment benefit, Finland is not maintaining a system of social security at a satisfactory level or endeavouring to raise it to a higher level, but is causing a sharp deterioration, in breach of the above mentioned provision.

Finnish Society of Social Rights v. Finland

Complaint no. 107/2014

The complaint, registered on 29 April 2014, relates to Article 24 (right to protection in cases of termination of employment) of the Revised European Social Charter. The complainant organisation alleges that Finland is authorising dismissals and redundancies of employees simply for reasons of profitability, in the absence of economic necessity or in order to subcontract or agree secondary contracts, in breach of the above mentioned provision.

Finnish Society of Social Rights v. Finland

Complaint no. 106/2014

The complaint, registered on 29 April 2014, relates to Article 24 (right to protection in cases of termination of employment) of the Revised European Social Charter.

The complainant organisation alleges that, in cases of unlawful dismissal, Finnish legislation does not provide for any possibility of reinstatement and requires the dismissal compensation to be capped, in breach of the above mentioned provision.

Associazione sindacale "La Voce dei Giusti" v. Italy

Complaint no. 105/2014

The complaint, registered on 22 April 2014, relates to Article 10 (right to vocational training) of the Revised European Social Charter, read alone or in conjunction with the non-discrimination clause in Article E. The complainant organisation alleges that teaching staff in certain categories are prevented from undertaking or continuing specialised studies on account of the increased burden of work imposed on them, in violation of the above mentioned provisions.

The European Committee of Social Rights declared the complaint admissible on 17 March 2015.

European Roma and Travellers Forum (ERTF) v. Czech Republic

Complaint no. 104/2014

The complaint, registered on 3 March 2014, relates to Articles 11 (the right to protection of health) and 16 (right of the family to social, legal and economic protection), read alone or in conjunction with the non-discrimination principle stated in the Preamble of the 1961 Charter. The complainant organisation, the ERTF, alleges that Roma in the Czech Republic are disproportionately subjected to residential segregation, substandard housing conditions, forced evictions and other systemic violations of the right to adequate housing and the right to health.

The European Committee of Social Rights declared the complaint admissible on 30 June 2014.

Bedriftsforbundet v. Norway

Complaint no. 103/2013

The complaint, registered on 9 September 2013, relates to Article 5 (the right to organise) of the European Social Charter. The complainant organisation, the *Bedriftsforbundet*, alleges that the practice in Norwegian ports that requires employees to be members of the dock workers' union in order to take up work constitutes a breach of the above mentioned provision.

The European Committee of Social Rights declared the complaint admissible on 14 May 2014.

Associazione Nazionale Giudici di Pace v. Italy

Complaint no. 102/2013

The complaint, registered on 2 August 2013, relates to Article 12 (right to social security) of the European Social Charter. The complainant organisation, the *Associazione Nazionale Giudici di Pace* (the National Association of Justices of the Peace), alleges that Italian law does not provide any social security and welfare protection for this category of honorary Judges, in violation of the Charter provision relied on.

The European Committee of Social Rights declared the complaint admissible on 2 December 2014.

European Council of Police Trade Unions (CESP) v. France

Complaint no. 101/2013

The complaint, registered on 10 June 2013, relates to Articles 5 (the right to organise) and 6 (the right to bargain collectively) of the Revised European Social Charter. The complainant organisation alleges that, by deliberately subjecting the so-called “military” personnel in the Gendarmerie Nationale, i.e. officers, NCOs and volunteers, to military regulations, the French Government has violated the Charter provisions relied on.

The European Committee of Social Rights declared the complaint admissible on 21 October 2013.

Number of decisions handed down by the European Committee of Social Rights 1998-2015

| Years | Registered complaints | Pending complaints on 01/01 | Decisions on admissibility | Decisions on the merits | Decisions on admissibility and the merits | Decisions on immediate measures | Decisions to strike out | Total decisions |
|--------------|-----------------------|-----------------------------|----------------------------|-------------------------|---|---------------------------------|-------------------------|-----------------|
| 1998 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 1999 | 5 | 1 | 2 | 1 | 0 | 0 | 0 | 3 |
| 2000 | 4 | 5 | 7 | 5 | 0 | 0 | 0 | 12 |
| 2001 | 1 | 4 | 2 | 3 | 0 | 0 | 0 | 5 |
| 2002 | 2 | 2 | 2 | 1 | 0 | 0 | 0 | 3 |
| 2003 | 10 | 3 | 8 | 2 | 0 | 0 | 0 | 10 |
| 2004 | 5 | 11 | 6 | 10 | 0 | 0 | 0 | 16 |
| 2005 | 4 | 6 | 5 | 4 | 0 | 0 | 0 | 9 |
| 2006 | 7 | 6 | 5 | 4 | 0 | 0 | 0 | 9 |
| 2007 | 7 | 9 | 7 | 5 | 0 | 0 | 0 | 12 |
| 2008 | 8 | 11 | 8 | 5 | 0 | 0 | 1 | 14 |
| 2009 | 5 | 13 | 7 | 7 | 0 | 0 | 0 | 14 |
| 2010 | 4 | 11 | 3 | 6 | 0 | 0 | 0 | 9 |
| 2011 | 12 | 9 | 11 | 4 | 0 | 0 | 0 | 15 |
| 2012 | 13 | 17 | 9 | 15 | 0 | 0 | 0 | 24 |
| 2013 | 15 | 15 | 14 (18 ³⁸) | 5 (9 ³⁹) | 4 | 4 | 0 | 27 |
| 2014 | 10 | 21 | 3 | 8 | | | 1 | 12 |
| 2015 | 6 | 22 | 10 (11 ³⁹) | 4(5 ³⁹) | 1 | (1) ⁴⁰ | | 15 |
| Total | 119 | 19 | 109 | 89 | 5 | 4 (5)⁴⁰ | 2 | 209 |

38. Taking account of the decisions relating both to the admissibility and the merits.

39. Decisions relating to the admissibility and the immediate measures.

Collective complaints – Statistics per country – 31 December 2015

| | Registered complaints | Decisions on admissibility | Admissible | Not admissible | Decisions On immediate measures | Decisions on the merits | Violation | Non violation | Strike out |
|----------------|-----------------------|----------------------------|------------|----------------|---------------------------------|-------------------------|-----------|---------------|------------|
| Belgium | 8 | 7 | 7 | 0 | 1 | 7 | 6 | 1 | 0 |
| Bulgaria | 6 | 6 | 6 | 0 | 0 | 5 | 5 | 0 | 1 |
| Croatia | 3 | 3 | 3 | 0 | 0 | 2 | 2 | 0 | 0 |
| Cyprus | 1 | 1 | 1 | 0 | 0 | - | - | - | 1 |
| Czech Republic | 3 | 3 | 3 | 0 | 0 | 1 | 1 | 0 | 0 |
| Finland | 8 | 5 | 5 | 0 | 0 | 5 | 4 | 1 | 0 |
| France | 34 | 31 (33*) | 29 (31*) | 2 | 0 | 26 (28*) | 20 | 6 (8*) | 0 |
| Greece | 17 | 17 | 16 | 1 | 0 | 14 | 14 | 0 | 0 |
| Ireland | 8 | 7 (8*) | 7 (8*) | 0 | 1 | 4 (5*) | 2 (3*) | 2 | 0 |
| Italy | 10 | 9 (10*) | 10 | 0 | 1** | 5 (6*) | 2 (3*) | 3 | 0 |
| Pays-Bas | 3 | 3 | 3 | 0 | 2 | 1 | 1 | 0 | 0 |
| Norway | 2 | 2 | 2 | 0 | 0 | 1 | 1 | 0 | 0 |
| Portugal | 11 | 11 | 10 | 1 | 0 | 10 | 4 | 6 | 0 |
| Slovenia | 2 | 2 | 2 | 0 | 0 | 1 | 1 | 0 | 0 |
| Sweden | 3 | 2 (3*) | 2 (3*) | 0 | 0 | 2 (3*) | 1 (2*) | 1 | 0 |
| Total | 119 | 109 (114*) | 105 (110*) | 4 | 5 (1*) | 84 (89*) | 63 | 21 | 2 |

* Taking account of the decisions relating both to the admissibility and the merits.

** Decisions relating to the admissibility and the immediate measures.

| Article | ANDORRA | ARMENIA | AUSTRIA | AZERBAIJAN | BELGIUM | BOSNIA AND HERZEGOVINA | BULGARIA | CYPRUS | ESTONIA | FINLAND | FRANCE | GEORGIA | HUNGARY | IRELAND | ITALY | LATVIA | LITHUANIA | MALTA | REPUBLIC OF MOLDOVA | MONTENEGRO | THE NETHERLANDS | NORWAY | PORTUGAL | ROMANIA | RUSSIAN FEDERATION | SERBIA | SLOVAK REPUBLIC | SLOVENIA | SWEDEN | "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" | TURKEY | UKRAINE | | | | |
|--------------|---------|---------|---------|------------|---------|------------------------|----------|--------|---------|---------|--------|---------|---------|---------|-------|--------|-----------|-------|---------------------|------------|-----------------|--------|----------|---------|--------------------|--------|-----------------|----------|--------|--|--------|---------|---|---|--|--|
| Article 7.8 | + | + | + | + | | - | | + | + | + | | - | | | | + | + | + | + | + | 0 | + | + | + | + | + | + | + | + | + | + | + | + | | | |
| Article 7.9 | + | + | + | + | | - | | | - | | | - | | | | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | | | |
| Article 7.10 | + | + | + | + | | + | | 0 | - | | | + | | | | 0 | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | | | |
| Article 8.1 | + | + | + | - | | - | | + | + | | | | 0 | | | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | | |
| Article 8.2 | + | + | + | 0 | | - | | + | + | | | + | | | | - | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | | |
| Article 8.3 | + | + | + | + | | + | | + | + | | | + | | | | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | | |
| Article 8.4 | + | + | + | + | | - | | + | + | | | + | | | | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | | |
| Article 8.5 | + | + | + | - | | - | | + | + | | | - | | | | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | + | | |
| Article 11.1 | | | | | | | | | | | | - | | | | | | | | | | | | | | | | | | | | | | | | |
| Article 11.2 | | | | | | | | | | | | - | | | | | | | | | | | | + | | | | | | | | | | | | |
| Article 11.3 | 0 | | | | | | | | | | | - | | | | | | | | | | | | | | | | | | | | | | | | |
| Article 12.1 | | | | | | | | | | | | - | | | | | | | | | | | | | | | | | | | | | | | | |
| Article 12.2 | | | | | | | | | | | | - | | | | | | | | | | | | | | | | | | | | | | | | |
| Article 12.3 | | | | | | | | | | | | - | | | | | | | | | | | | | | | | | | | | | | | | |
| Article 12.4 | | | | | | | | | | + | | | | | | | | | | | | | | | | | | | | | | | | | | |

1961 European Social Charter - Conclusions XX-4 (2015)

| Article | CZECH REPUBLIC | DENMARK | GERMANY | GREECE | POLAND | SPAIN | UNITED KINGDOM |
|---------------|----------------|---------|---------|--------|--------|-------|----------------|
| Article 7.1 | + | | | | | + | |
| Article 7.2 | + | | + | | + | + | + |
| Article 7.3 | + | | + | | | 0 | - |
| Article 7.4 | - | | + | | + | + | |
| Article 7.5 | - | | - | | | - | - |
| Article 7.6 | + | | + | | + | + | + |
| Article 7.7 | + | | + | | + | + | |
| Article 7.8 | + | | + | | + | + | |
| Article 7.9 | + | | + | | + | + | + |
| Article 7.10 | + | | 0 | | + | + | - |
| Article 8.1 | + | + | + | | + | + | - |
| Article 8.2 | - | | | | + | 0 | |
| Article 8.3 | 0 | | + | | + | + | |
| Article 8.4 | | | | | - | + | |
| Article 11.2 | | | | + | | | |
| Article 13.4 | | | | - | | | |
| Article 16 | - | - | + | | - | - | - |
| Article 17 | - | - | + | | - | + | - |
| Article 19.1 | | | + | | + | - | + |
| Article 19.2 | | | 0 | | - | + | 0 |
| Article 19.3 | | | + | | 0 | - | - |
| Article 19.4 | | | - | | + | + | 0 |
| Article 19.5 | | | + | | + | + | + |
| Article 19.6 | | | - | | + | - | - |
| Article 19.7 | | | + | | + | + | + |
| Article 19.8 | | | - | | 0 | 0 | 0 |
| Article 19.9 | + | | + | | + | + | + |
| Article 19.10 | | | - | | - | - | - |

| | | | |
|--------------|------------------|------------|---|
| + Conformity | - Non conformity | 0 Deferral | <input type="checkbox"/> Non accepted provision |
|--------------|------------------|------------|---|

Reporting procedure: Committee assessments 2005-2015

| | 2015 | 2014 | 2013 | 2012 | 2011 | 2010 | 2009 | 2008 | 2007 | 2006 | 2005 |
|---------------------|------|------|------|------|------|------|------|------|------|------|------|
| Examined situations | 824 | 724 | 568 | 608 | 950 | 569 | 572 | 425 | 839 | 915 | 685 |
| Conformity | 452 | 337 | 277 | 277 | 459 | 271 | 281 | 185 | 363 | 461 | 305 |
| | 55% | 46% | 49% | 45% | 48% | 48% | 49% | 43% | 43% | 50% | 45% |
| Non-conformity | 278 | 252 | 181 | 156 | 256 | 184 | 164 | 126 | 230 | 244 | 126 |
| | 34% | 35% | 32% | 26% | 27% | 32% | 29% | 30% | 28% | 27% | 18% |
| Deferral | 94 | 135 | 110 | 175 | 235 | 114 | 127 | 114 | 246 | 210 | 254 |
| | 11% | 19% | 19% | 29% | 25% | 20% | 22% | 27% | 29% | 23% | 37% |

Appendix 7.

Selection of the Conclusions of non-conformity 2015 for the attention of the Parliamentary assembly

Introductory remarks

In the framework of the Turin process of the European Social Charter, and the High Level Conference that led to its launch (Turin, Italy, 17 - 18 October 2014), action by the Parliamentary Assembly of the Council of Europe and national parliaments of the Member States was considered essential to the promotion and effective implementation of this Treaty guaranteeing social and economic rights.

One of the main conclusions of the meeting held in Strasbourg on 6 October 2011 under the auspices of the Committee on Social Affairs, Health and Sustainable Development on “non-discrimination and equal opportunities in the enjoyment of social rights”, in the context of the 50th anniversary of the European Social Charter, was that the cooperation between the European Committee of Social Rights and the relevant committees of the Parliamentary Assembly should be strengthened.

In this respect, it was suggested that one of the means of reinforcing the cooperation could consist in having the European Committee of Social Rights “directly transmit to the Parliamentary Assembly the decisions and conclusions of non-conformity whose effective follow-up and implementation required governments and national parliaments to take appropriate measures”. In this way, taking into account their two-fold mandate, European and national, the members of the Assembly would be able to contribute decisively to the implementation of the conclusions of non-conformity adopted by the Committee.

From this point of view, the outcome of the meeting of 6 October 2011 was that a selection of conclusions of non-conformity by the Committee where normative action at national level is necessary would be submitted. Moreover, one of the main conclusions of the exchange of views between the PACE Sub-Committee on the European Social Charter and the Committee held in Paris October 18, 2013 (on the occasion of the parliamentary seminar “Improving the conditions of young workers”) was to strengthen the follow up to the decisions and conclusions of non-conformity adopted by the Committee, at national level, through other measures that are part of the essential functions of Parliamentarians (that is to say, budgetary functions as well as functions of political control). Thus, the selection below distinguishes, country by country, based on the possibilities of follow up through either normative action or other parliamentary measures.

The present contribution has been drawn up in the spirit of Resolution 1824 (2011) on “The role of parliaments in the consolidation and development of social rights in Europe” (adopted by the Assembly on 23 June 2011) as well as of the Declaration of the Committee of Ministers on the 50th Anniversary of the European Social Charter (adopted by the Committee of Ministers on 12 October 2011 during the 1123rd meeting of the Ministers’ Deputies). In this respect the members of the Parliamentary Assembly have, due to the two-fold nature of their mandate, European and national, a privileged position and a major responsibility in furthering acceptance of the

collective complaints procedure and ratification of the Revised European Social Charter in their respective countries.

The European Committee of Social Rights is delighted to be part of this form of cooperation and it wishes to thank the Parliamentary Assembly for developing its vital role in highlighting the importance for States of accepting the collective complaints procedure as well as the Revised Charter thereby strengthening the social aspects of democracy and the guarantee of social rights at national level.

In this regard, it should be stressed that the strengthening of this co-operation and the role of the Assembly is also notably illustrated in the context of its activities, and in particular of the Committee on Social Affairs, Health and Sustainable Development, which appointed the First Vice-President of the Commission “Rapporteur on the” Turin Process””.

Herewith follows a selection of conclusions of non-conformity 2015 in respect of which measures (either normative or legislative, or of a budgetary character or political control) are necessary in order to render effective the application of the Charter at national level.

The entire set of conclusions of the European Committee of Social Rights can be found on the European Social Charter website: www.coe.int/socialcharter

ARMENIA

Normative Action

■ **Article 7§1**

The situation in Armenia is not in conformity with Article 7§1 of the Charter on the grounds that: the definition of light work is not sufficiently precise; the daily and weekly working time for children under the age of 15 is excessive and therefore cannot be qualified as light work.

■ **Article 7§5**

The situation in Armenia is not in conformity with Article 7§5 of the Charter on the ground that the young workers’ wages are not fair.

■ **Article 19§6**

The situation in Armenia is not in conformity with Article 19§6 of the Charter on the ground that there is no right of review of a decision rejecting an application for family reunion before an independent body.

■ **Article 17§1**

The situation in Armenia is not in conformity with Article 17§1 of the Charter on the grounds that: not all forms of corporal punishment of children are prohibited in the home.

■ **Article 13§1**

The situation in Armenia is not in conformity with Article 13§1 of the Charter on the ground that the social assistance provided to elderly persons without resources is not adequate.

Other parliamentary measure

■ **Article 17§2**

The situation in Armenia is not in conformity with Article 17§2 of the Charter on the ground that the net enrolment and attendance rates in the secondary education are low.

AUSTRIA

Normative Action

■ **Article 7§10**

The situation in Austria is not in conformity with Article 7§10 of the Charter on the ground that not all children until the age of 18 are protected against all forms of child pornography.

■ **Article 17§1**

The situation in Austria is not in conformity with Article 17§1 of the Charter on the ground that the maximum length of pre-trial detention of minors is excessive.

■ **Article 19§6**

The situation in Austria is not in conformity with Article 19§6 of the Charter on the grounds that: the age limit of 21 for family reunion of married couples who are not nationals of an EEA member state does not facilitate family reunion; under the quota system which limits the number of requests which may be accepted during any given year, families may be required to wait for up to three years before being granted reunion, a delay which is excessive; the fact that certain categories of sponsored family member need to prove knowledge of the German language at level A1 on the Common European Framework hinders the right to family reunion.

■ **Article 16**

The situation in Austria is not in conformity with Article 16 of the Charter on the ground that equal treatment for nationals of the other States Parties with regard to the payment of housing subsidies is not ensured (nationality, length of residence requirements).

AZERBAIJAN

Normative Action

■ **Article 7§7**

The situation in Azerbaijan is not in conformity with Article 7§7 of the Charter on the ground that young workers have the option of giving-up their annual holiday for financial compensation.

■ **Article 7§10**

The situation in Azerbaijan is not in conformity with Article 7§10 of the Charter on the grounds that: children over 16 but under the age of 18 may be held criminally liable for prostitution; all forms of corporal punishment are not prohibited in the home and in institutions.

■ Article 16

The situation in Azerbaijan is not in conformity with Article 16 of the Charter on the ground that equal treatment of nationals of States Parties regarding the payment of family benefits is not ensured because the length of residence requirement is excessive.

■ Article 8§1

The situation in Azerbaijan is not in conformity with Article 8§1 of the Charter on the ground that interruptions in the employment record are not taken into account in the assessment of the qualifying period required for entitlement to maternity benefits.

■ Article 27§2

The situation in Azerbaijan is not in conformity with Article 27§2 of the Charter on the grounds that: the level of social leave benefit is inadequate.

BOSNIA AND HERZEGOVINA

Normative Action

■ Article 16

The situation in Bosnia and Herzegovina is not in conformity with Article 16 of the Charter on the grounds that: family benefits do not cover a significant number of families in the Federation of Bosnia and Herzegovina; equal treatment of foreign nationals of other States Parties who are lawfully resident or regularly working with respect to family benefits is not ensured.

■ Article 7§9

The situation in Bosnia and Herzegovina is not in conformity with Article 7§9 of the Charter on the ground that legislation does not provide for compulsory regular medical examinations for young workers under 18 years of age employed in occupations prescribed by national laws or regulations.

■ Article 7§6

The situation in Bosnia and Herzegovina is not in conformity with Article 7§6 of the Charter on the ground that the legislative framework does not provide for time spent at the training with the consent of employer to be included in normal working time and remunerated as such.

■ Article 7§5

The situation in Bosnia and Herzegovina is not in conformity with Article 7§5 of the Charter on the ground that young workers' wages are not fair.

■ Article 7§4

The situation in Bosnia and Herzegovina is not in conformity with Article 7§4 of the Charter on the ground that the limit of 40 hours' work per week for young workers under the age of 16 is excessive.

■ Article 17§1

The situation in Bosnia and Herzegovina is not in conformity with Article 17§1 of the Charter on the ground that all forms of corporal punishment are not prohibited in the home in the Federation of Bosnia and Herzegovina and the Brčko District.

■ Article 8§1

The situation in Bosnia and Herzegovina is not in conformity with Article 8§1 of the Charter on the ground that maternity benefits are not adequate or not provided for in certain parts of the country.

■ Article 8§5

The situation in Bosnia and Herzegovina is not in conformity with Article 8§5 of the Charter on the ground that there are no adequate regulations on dangerous, unhealthy and arduous work in respect of pregnant women, women who have recently given birth or who are nursing their infant.

CZECH REPUBLIC

Normative Action

■ Article 17

The situation in the Czech Republic is not in conformity with Article 17 of the 1961 Charter on the ground that all forms of corporal punishment are not prohibited in the home and in institutions.

■ Article 7§4

The situation in the Czech Republic is not in conformity with Article 7§4 of the 1961 Charter on the ground that the duration of working time for young workers under 16 years of age is excessive.

■ Article 7§5

The situation in the Czech Republic is not in conformity with Article 7§5 of the 1961 Charter on the grounds that: the minimum wage of young workers is not fair.

Other parliamentary measures

■ Article 16

The situation in Czech Republic is not in conformity with Article 16 of the 1961 Charter on the grounds that: housing conditions of Roma families are not adequate; family benefits are not of an adequate level for a significant number of families.

CYPRUS

Normative Action

■ Article 27§3

The situation in Cyprus is not in conformity with Article 27§3 of the Charter on the ground that courts can only order reinstatement of an unlawfully dismissed employee in cases where the enterprise concerned has more than 20 employees.

■ Article 7§1

The situation in Cyprus is not in conformity with Article 7§1 of the Charter on the ground that the duration of light work during non-school days is excessive.

■ Article 19§6

The situation in Cyprus is not in conformity with Article 19§6 of the Charter on the grounds that: sponsors must be resident in the host State for a minimum of two years prior to being granted family reunion; spouses must be over the age of 21 years prior to being eligible for family reunion; the residence permit of a family member of the sponsor may be revoked where the sponsor's residence permit is terminated and the family member does not yet have an independent right of residence.

DENMARK

Normative action

■ Article 17

The situation in Denmark is not in conformity with Article 17 of the 1961 Charter on the grounds that: minors can be subject to eight months of pre-trial detention; solitary confinement of minors can last four weeks.

■ Article 16

The situation in Denmark is not in conformity with Article 16 of the 1961 Charter on the ground that the length of residence requirements for ordinary and special child allowances for nationals of States Parties are excessive.

ESTONIA

Normative action

■ Article 7§1

The situation in Estonia is not in conformity with Article 7§1 of the Charter on the ground that the daily and weekly working time for children under the age of 15 is excessive and therefore cannot be qualified as light work.

■ Article 19§6

The situation in Estonia is not in conformity with Article 19§6 of the Charter on the ground that the two years residence requirement, imposed on migrant workers who are not citizens of Member States of the European Union nor citizens of states within the European Economic Area, is excessive.

■ Article 16

The situation in Estonia is not in conformity with Article 16 of the Charter on the grounds that: the notice period before eviction is too short; family benefits are not of an adequate level for a significant number of families.

Other parliamentary measures

■ **Article 7§10**

The situation in Estonia is not in conformity with Article 7§10 of the Charter on the ground that children between 14 and 18 years of age are not effectively protected against all forms of sexual exploitation.

GEORGIA

Normative action

■ **Article 7§1**

The situation in Georgia is not in conformity with Article 7§1 of the Charter on the grounds that: the prohibition of employment under the age of 15 does not apply to all economic sectors and all forms of economic activity; the daily and weekly working time for children under 15 is excessive and therefore cannot be qualified as light work; during the reference period there was no labour inspection supervising that the regulations on child labour were respected in practice.

■ **Article 7§6**

The situation in Georgia is not in conformity with Article 7§6 of the Charter on the ground that the time spent in vocational training is not included in the normal working time and remunerated as such.

Other parliamentary measures

■ **Article 11§1**

The situation in Georgia is not in conformity with Article 11§1 of the Charter on the ground that out-of-pocket payments in general and medication costs in particular represent too high a burden for the individual effectively being an obstacle to universal access to health care.

■ **Article 11§3**

The situation in Georgia is not in conformity with Article 11§3 of the Charter on the ground that adequate measures have not been taken to ensure access to safe drinking water in rural areas.

GERMANY

Normative action

■ **Article 19§8**

The situation in Germany is not in conformity with Article 19§8 of the 1961 Charter on the ground that recourse to social welfare, homelessness and substance abuse remain grounds for expulsion.

HUNGARY

Normative action

■ **Article 7§1**

The situation in Hungary is not in conformity with Article 7§1 of the Charter on the ground that the definition of light work is not sufficiently precise.

■ **Article 17§2**

The situation in Hungary is not in conformity with Article 17§2 of the Charter on the ground that Roma children are subject to segregation in the educational field.

■ **Article 16**

The situation in Hungary is not in conformity with Article 16 of the Charter on the grounds that: evicted families can be left homeless; Roma families do not have access to adequate housing; equal treatment of nationals of other States Parties with regard to family benefits is not ensured because the length of residence requirement is excessive.

■ **Article 17§1**

The situation in Hungary is not in conformity with Article 17§1 of the Charter on the ground that the maximum period of pre-trial detention of minors is excessive.

IRELAND

Other parliamentary measures

■ **Article 3§4**

The situation in Ireland is not in conformity with Article 3§4 of the Charter on the ground that there is no strategy to develop occupational health services for all workers.

LATVIA

Normative action

■ **Article 19§6**

The situation in Latvia is not in conformity with Article 19§6 of the Charter on the ground that family members are not granted an independent right to remain.

■ **Article 16**

The situation in Latvia is not in conformity with Article 16 of the Charter on the grounds that: family benefits are not of an adequate level for a significant number of families; equal treatment of nationals of other States Parties regarding the payment of family benefits is not ensured because the length of residence requirement is excessive.

LITHUANIA

Normative action

■ **Article 17§1**

The situation in Lithuania is not in conformity with Article 17§1 of the Charter on the ground that corporal punishment is not prohibited in the home, in schools and in institutions.

■ Article 7§1

The situation in Lithuania is not in conformity with Article 7§1 of the Charter on the ground that during school holidays the daily and weekly working time for children under 15 years of age is excessive and therefore cannot be qualified as light work.

■ Article 8§2

The situation in Lithuania is not in conformity with Article 8§2 of the Charter on the ground that exceptions to the prohibition of dismissal of employees during pregnancy or maternity leave are excessively broad.

■ Article 16

The situation in Lithuania is not in conformity with Article 16 of the Charter on the grounds that: family benefits are not of an adequate level for a significant number of families; equal treatment of nationals of other States Parties with regard to the payment of family benefits is not ensured due to an excessive length of residence requirement.

Other parliamentary measures

■ Article 31§1

The situation in Lithuania is not in conformity with Article 31§1 of the Charter on the ground that measures taken by public authorities to improve the substandard housing conditions of most Roma are insufficient.

MALTA

Normative action

■ Article 7§4

The situation in Malta is not in conformity with Article 7§4 of the Charter on the ground that the daily and weekly working time for young workers under the age of 16 is excessive.

■ Article 7§1

The situation in Malta is not in conformity with Article 7§1 of the Charter on the ground that the prohibition of employment of children under 15 does not apply to children employed in occasional or short-term work involving domestic service in a private household or work in a family undertaking.

Other parliamentary measures

■ Article 16

The situation in Malta is not in conformity with Article 16 of the Charter on the grounds that migrant families face discrimination in their access to housing.

REPUBLIC OF MOLDOVA

Normative action

■ Article 19§8

The situation in the Republic of Moldova is not in conformity with Article 19§8 of the Charter on the ground that the legislation permits the expulsion of migrant workers

in situations where they do not pose a threat to national security, or offend against public interest or morality.

■ Article 17§1

The situation in the Republic of Moldova is not in conformity with Article 17§1 of the Charter on the ground that children can be taken into residential care due to material circumstances of the family.

Other parliamentary measures

■ Article 17§2

The situation in the Republic of Moldova is not in conformity with Article 17§2 of the Charter on the grounds that: the net enrolment rate in compulsory education remains too low; measures taken to ensure that Roma children complete compulsory education are not sufficient.

■ Article 13§1

The situation in the Republic of Moldova is not in conformity with Article 13§1 of the Charter on the grounds that the level of social assistance is manifestly inadequate; the level of social assistance for elderly persons without resources is manifestly inadequate.

■ Article 12§1

The situation in the Republic of Moldova is not in conformity with Article 12§1 of the Charter on the ground that the minimum level of unemployment benefits is manifestly inadequate.

■ Article 7§1

The situation in the Republic of Moldova is not in conformity with Article 7§1 of the Charter on the ground that the definition of light work is not sufficiently precise.

MONTENEGRO

Normative action

■ Article 17§1

The situation in Montenegro is not in conformity with Article 17§1 of the Charter on the ground that corporal punishment of children is not prohibited in the home and in institutions.

Other parliamentary measures

■ Article 16

The situation in Montenegro is not in conformity with Article 16 of the Charter on the ground that family benefits do not cover a significant number of families.

THE NETHERLANDS

Normative action

■ Article 31§2

The situation in the Netherlands is not in conformity with Article 31§2 of the Charter on the grounds that: the minimum notice period before eviction of two weeks is too

short; the law does not prohibit eviction from emergency accommodation/shelters without the provision of alternative accommodation.

■ Article 7§6

The situation in the Netherlands is not in conformity with Article 7§6 of the Charter on the ground that the time spent in vocational training is not included in the normal working time and remunerated as such for the majority of workers.

■ Article 16

The situation in the Netherlands is not in conformity with Article 16 of the Charter on the grounds that: in respect of the special Caribbean municipalities, the protection against domestic violence against women is not adequate; in respect of the special Caribbean municipalities, there is no child benefit scheme.

■ Article 7§3

The situation in the Netherlands is not in conformity with Article 7§3 of the Charter on the grounds that: children aged 15 who are still subject to compulsory education are not guaranteed an uninterrupted rest period of at least two weeks during summer holiday; it is possible for children aged 15, who are still subject to compulsory education, to deliver newspapers before school from 6 a.m. for up to 2 hours per day, 5 days per week.

■ Article 7§9

The situation in the Netherlands is not in conformity with Article 7§9 of the Charter on the grounds that: there is no general mandatory medical examination for workers under 18 years of age.

■ Article 19§6

The situation in the Netherlands is not in conformity with Article 19§6 of the Charter on the grounds that: the minimum age of 21 for spouses to be eligible for reunification is an undue restriction on family reunion; family members of a migrant worker who have settled in the Netherlands as a result of family reunion may be expelled automatically when the migrant worker loses his or her right of residence.

■ Article 17§1

The situation in the Netherlands is not in conformity with Article 17§1 of the Charter on the ground that minors may be given an adult criminal law sentence and thus placed in adult detention facilities.

Other parliamentary measures

■ Article 31§1

The situation in the Netherlands is not in conformity with Article 31§1 of the Charter on the ground that there is a failure to create a sufficient number of halting sites for non-sedentary populations and there are poor living conditions on such sites.

■ Article 19§4

The situation in the Netherlands is not in conformity with Article 19§4 of the Charter on the ground that the right to appeal before an independent judicial body relating

to the distribution of accommodation to migrant workers and their families is not effective in practice.

THE NETHERLANDS - ARUBA

Normative action

■ Article 16

The situation in the Netherlands in respect of Aruba is not in conformity with Article 16 of the 1961 Charter on the grounds that: there is no adequate legal protection for persons threatened by eviction from their housing; there are no mediation services; there is no adequate protection both in law and in practice, for women in case of domestic violence; equal treatment of nationals of States Parties regarding the payment of family benefits is not ensured because the length of residence requirement is excessive.

THE NETHERLANDS - CURACAO

Normative action

■ Article 16

The situation in the Netherlands in respect of Curaçao is not in conformity with Article 16 of the 1961 Charter on the grounds that: the system of family benefits covers only families belonging to a certain category of the population; foreign nationals are not entitled to family benefits.

NORWAY

Normative action

■ Article 7§1

The situation in Norway is not in conformity with Article 7§1 of the Charter on the ground that the daily and weekly duration of light work permitted during school holidays for children under the age of 15 is excessive.

■ Article 19§4

The situation in Norway is not in conformity with Article 19§4 of the Charter on the ground that a two-year residence requirement for eligibility for municipal housing, as applied by some municipalities, is excessive and constitutes a discrimination against migrant workers and their families.

■ Article 16

The situation in Norway is not in conformity with Article 16 of the Charter on the ground that equal treatment of nationals of other States Parties regarding the payment of child benefit is not ensured because the length of residence requirement is excessive.

POLAND

Normative action

■ Article 8§4

The situation in Poland is not in conformity with Article 8§4(a) of the 1961 Charter on the ground that the regulation of night work does not adequately protect women carrying out night work in industrial employment.

■ Article 17

The situation in Poland is not in conformity with Article 17 of the 1961 Charter on the ground that juvenile offenders may be held in pre-trial detention for up to two years.

ROMANIA

Normative action

■ Article 16

The situation in Romania is not in conformity with Article 16 of the Charter on the grounds that the right to adequate housing is not guaranteed for Roma families.

■ Article 13§1

The situation in Romania is not in conformity with Article 13§1 of the Charter on the grounds that: the level of social assistance is manifestly inadequate, including for elderly persons without resources; uninsured persons are not entitled to adequate medical assistance.

RUSSIAN FEDERATION

Normative action

■ Article 17§1

The situation in Russian Federation is not in conformity with Article 17§1 of the Charter on the ground that not all forms of corporal punishment are prohibited in the home and in institutions.

Other parliamentary measures

■ Article 16

The situation in the Russian Federation is not in conformity with Article 16 of the Charter on the ground that family benefits do not cover a significant number of families.

SERBIA

Normative action

■ Article 7§4

The situation in Serbia is not in conformity with Article 7§4 of the Charter on the ground that the duration of daily and weekly working time for young workers under the age of 16 is excessive.

■ Article 19§6

The situation in Serbia is not in conformity with Article 19§6 of the Charter on the ground that family members of a migrant worker are not granted an independent right to stay after exercising their right to family reunion.

■ Article 17§1

The situation in Serbia is not in conformity with Article 17§1 of the Charter on the ground that corporal punishment is not prohibited in the home and in institutions.

■ Article 16

The situation in Serbia is not in conformity with Article 16 of the Charter on the ground that equal treatment of nationals of other States Parties regarding the payment of family benefits is not ensured.

■ Article 19§8

The situation in Serbia is not in conformity with Article 19§8 of the Charter on the ground that a migrant worker may be expelled where there exists reasonable doubt that he/she will take advantage of the stay for purposes other than those declared.

SLOVAK REPUBLIC

Normative action

■ Article 8§1

The situation in the Slovak Republic is not in conformity with Article 8§1 of the Charter on the ground that the level of maternity benefits is inadequate.

■ Article 17§1

The situation in the Slovak Republic is not in conformity with Article 17§1 of the Charter on the grounds that: all forms of corporal punishment are not prohibited in the home; juveniles may be held in pre-trial detention for up to two years.

■ Article 16

The situation in Slovak Republic is not in conformity with Article 16 of the Charter on the grounds that: the right to housing of Roma families is not effectively guaranteed; the level of child benefits does not constitute an adequate income supplement; equal treatment of nationals of States Parties regarding the payment of childbirth allowance is not ensured.

■ Article 8§2

The situation in the Slovak Republic is not in conformity with Article 8§2 of the Charter on the ground that a worker can be dismissed during her pregnancy or maternity leave if she does not accept changes in her employment contract resulting from the relocation of all or part of the employer's activities.

Other parliamentary measures

■ Article 17§2

The situation in the Slovak Republic is not in conformity with Article 17§2 of the Charter on the ground that Roma children are disproportionately represented in special classes.

SLOVENIA

Normative action

■ Article 31§2

The situation in Slovenia is not in conformity with Article 31§2 of the Charter on the grounds that: measures in place to reduce the number of homeless persons

were inadequate in quantitative terms; the law does not prohibit eviction from emergency accommodation/shelters without the provision of alternative accommodation.

■ Article 17§1

The situation in Slovenia is not in conformity with Article 17§1 of the Charter on the ground that not all forms of corporal punishment are prohibited in the home.

■ Article 19§4

The situation in Slovenia is not in conformity with Article 19§4 of the Charter on the grounds that: equal treatment is not secured for migrant workers with respect to access to housing, and in particular to assisted rental schemes and subsidies.

■ Article 31§3

The situation in Slovenia is not in conformity with Article 31§3 of the Charter on the grounds that: nationals of other States Parties lawfully residing or working regularly are not entitled to equal treatment regarding eligibility for non-profit housing; the supply of non-profit housing is inadequate; the average waiting period for allocation of non-profit rental housing is too long; the remedies in case of excessive length of waiting period are not effective.

■ Article 7§3

The situation in Slovenia is not in conformity with Article 7§3 of the Charter on the ground that the duration of light work for children subject to compulsory education during school holidays is excessive.

■ Article 19§8

The situation in Slovenia is not in conformity with Article 19§8 of the Charter on the grounds that: migrant workers may be expelled in situations where they do not endanger national security or offend against public interest or morality; migrant workers have no independent right of appeal against a deportation order.

■ Article 7§4

The situation in Slovenia is not in conformity with Article 7§4 of the Charter on the ground that the daily and weekly working time for young workers under the age of 16 is excessive.

SPAIN

Normative action

■ Article 19§6

The situation in Spain is not in conformity with Article 19§6 of the 1961 Charter on the grounds that: no provision is made in law or in practice for the family reunion of dependent children of migrant workers aged between 18 and 21 who do not have a disability and do not require the assistance of a third party because of their state of health.

SWEDEN

Normative action

■ **Article 7§1**

The situation in Sweden is not in conformity with Article 7§1 of the Charter on the ground that the daily and weekly working time for children under the age of 15 is excessive and therefore cannot be qualified as light work.

■ **Article 12§1**

The situation in Sweden is not in conformity with Article 12§1 of the Charter on the ground that the basic unemployment benefit is manifestly inadequate.

■ **Article 31§2**

The situation in Sweden is not in conformity with Article 31§2 of the Charter on the ground that the law does not prohibit eviction from emergency accommodation/shelters without the provision of alternative accommodation.

■ **Article 19§4**

The situation in Sweden is not in conformity with Article 19§4 of the Charter on the ground that treatment not less favourable than that of Swedish workers with respect to the enjoyment of the benefits of collective bargaining is not guaranteed for foreign posted workers lawfully within the territory of Sweden.

■ **Article 7§9**

The situation in Sweden is not in conformity with Article 7§9 of the Charter on the ground that a regular medical examination for young workers is not guaranteed by national laws or regulations.

“THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA”

Normative action

■ **Article 7§9**

The situation in “the former Yugoslav Republic of Macedonia” is not in conformity with Article 7§9 of the Charter on the grounds that: a full medical examination of young workers under 18 at recruitment is not guaranteed by national laws or regulations; the interval between the medical examinations for young workers during employment is too long.

■ **Article 7§1**

The situation in “the former Yugoslav Republic of Macedonia” is not in conformity with Article 7§1 of the Charter on the ground that the daily and weekly working time for children under the age of 15 is excessive and therefore cannot be qualified as light work.

■ **Article 19§6**

The situation in “the former Yugoslav Republic of Macedonia” is not in conformity with Article 19§6 of the Charter on the ground that family members of a migrant

worker are not granted an independent right to remain after exercising their right to family reunion.

■ Article 16

The situation in the “former Yugoslav Republic of Macedonia” is not in conformity with Article 16 of the Charter on the grounds that: family benefits do not cover a significant number of families; equal treatment of nationals of other States Parties regarding the payment of family benefits is not ensured because the length of residence requirement is excessive.

TURKEY

Normative action

■ Article 8§2

The situation in Turkey is not in conformity with Article 8§2 of the Charter on the grounds that: there is no adequate protection in the Labour Act against unlawful dismissals during pregnancy or maternity leave; not all employed women are entitled to reinstatement in case of unlawful dismissal during pregnancy or maternity leave.

■ Article 8§1

The situation in Turkey is not in conformity with Article 8§1 of the Charter on the ground that the level of maternity benefits provided to women employed in the press sector is not adequate.

■ Article 7§8

The situation in Turkey is not in conformity with Article 7§8 of the Charter on the ground that night work for workers under 18 years of age is prohibited only in industrial undertakings.

■ Article 7§4

The situation in Turkey is not in conformity with Article 7§4 of the Charter on the ground that the daily and weekly working time for young workers under the age of 16 years is excessive.

■ Article 23

The situation in Turkey is not in conformity with Article 23 of the Charter on the ground that there is no anti-discrimination legislation to protect elderly persons outside the field of employment.

■ Article 17§1

The situation in Turkey is not in conformity with Article 17§1 of the Charter on the grounds that: not all forms of corporal punishment are prohibited in the home, in schools and in institutions.

■ Article 27§2

The situation in Turkey is not in conformity with Article 27§2 of the Charter on the grounds that: fathers, other than civil servants do not have the right to parental leave; no compensation or remuneration is paid for parental leave.

■ Article 19§6

The situation in Turkey is not in conformity with Article 19§6 of the Charter on the ground that the requirement that family members of a migrant worker reside for Turkey for three years before acquiring an independent right of residence is excessive.

Other parliamentary measures

■ Article 17§2

The situation in Turkey is not in conformity with Article 17§2 of the Charter on the ground that irregularly present children do not have effective access to education.

■ Article 31§2

The situation in Turkey is not in conformity with Article 31§2 of the Charter on the grounds that: there are no effective measures to reduce and prevent homelessness.

■ Article 7§1

The situation in Turkey is not in conformity with Article 7§1 of the Charter on the ground that the prohibition of employment under the age of 15 is not effectively guaranteed.

UNITED KINGDOM

Normative action

■ Article 16

The situation in United Kingdom is not in conformity with Article 16 of the 1961 Charter on the grounds that: in England, the right of Roma/Traveller families to housing is not effectively guaranteed; associations representing families are not consulted when family policies are drawn up.

■ Article 17

The situation in United Kingdom is not in conformity with Article 17 of the 1961 Charter on the grounds that: not all forms of corporal punishment are prohibited in the home; the age of criminal responsibility is manifestly low.

■ Article 7§10

The situation in United Kingdom is not in conformity with Article 7§10 of the 1961 Charter on the ground that the legislation permits treating children involved in prostitution as offenders.

■ Article 7§3

The situation in United Kingdom is not in conformity with Article 7§3 of the 1961 Charter on the ground that the daily and weekly duration of light work for children who are still subject to compulsory education during school holidays is excessive.

■ Article 19§6

The situation in United Kingdom is not in conformity with Article 19§6 of the 1961 Charter on the grounds that: family members may be expelled following the

deportation of their sponsor, without proof that they are a threat to national security, or offend against public interest or morals; the language requirements imposed on the family members of migrant workers are likely to hinder family reunion; the income requirement for migrants who wish their families to join them is too high and is likely to hinder family reunion.

■ Article 8§1

The situation in the United Kingdom is not in conformity with Article 8§1 of the 1961 Charter on the ground that the standard rates of Statutory Maternity Pay, after six weeks, and Maternity Allowance are inadequate.

Other parliamentary measures

■ Article 19§3

The situation in United Kingdom is not in conformity with Article 19§3 of the 1961 Charter on the ground that appropriate co-operation between the social services of the United Kingdom and emigration and immigration states is not sufficiently promoted.

UKRAINE

Normative action

■ Article 7§5

The situation in Ukraine is not in conformity with Article 7§5 of the Charter on the ground that the young workers' wages are not fair.

■ Article 7§10

The situation in Ukraine is not in conformity with Article 7§10 of the Charter on the grounds that: child prostitution is only criminalised until the age of 16; child pornography is not criminalised until the age of 18. simple possession of child pornography is not a criminal offence.

■ Article 7§1

The situation in Ukraine is not in conformity with Article 7§1 of the Charter on the ground that the definition of light work is not sufficiently precise.

■ Article 31§2

The situation in Ukraine is not in conformity with Article 31§2 of the Charter on the grounds that: the legal protection for persons threatened by eviction is not adequate.

■ Article 31§1

The situation in Ukraine is not in conformity with Article 31§1 of the Charter on the grounds that: the right to adequate housing is not guaranteed.

Other parliamentary measures

■ Article 30

The situation in Ukraine is not in conformity with Article 30 of the Charter on the ground that there is no effective overall and coordinated approach to combating poverty and social exclusion.

Appendix 8.

In 2015, on request of the Committee of Ministers of the Council of Europe, the European Committee of Social rights shared its observations on the Recommendation 2058 (2014) of the Parliamentary Assembly, as well as on the Recommendation 361 (2014) of the Congress of local and regional authorities.

COMMENTS ON RECOMMENDATION 2058 (2014) OF THE PARLIAMENTARY ASSEMBLY

“SOCIAL EXCLUSION – A DANGER FOR EUROPE’S DEMOCRACIES”

30 January 2015

The Committee of Ministers has asked the European Committee of Social Rights to forward any comments it might have on Recommendation 2058 (2014) of the Parliamentary Assembly. In reply to this request, the Committee wishes to make the following observations:

The Committee fully subscribes to the Recommendation’s findings and the requests made to the Committee of Ministers, particularly those to take all necessary measures to promote the ratification and implementation of the Revised European Social Charter by all Member States.

The Committee has consistently held that living in a situation of poverty and social exclusion violates the dignity of human beings and that Article 30 of the Revised Charter requires States Parties to give effect to the right to protection against poverty and social exclusion by adopting measures aimed at preventing and removing obstacles to access to fundamental social rights, in particular employment, housing, training, education, culture and social and medical assistance (Statement of interpretation on Article 30, Conclusions 2003).

The Committee has emphasised that these measures should not only strengthen entitlement to social rights but also improve “their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights and where necessary specifically target the most vulnerable groups and regions” (Statement of interpretation on Article 30, Conclusions 2003). In this respect, in *ERRC v. France*, Complaint No. 51/2008, decision on the merits of 19 October 2009, the Committee also emphasised the importance of dialogue with representatives of the civil society as well as persons affected by poverty and exclusion (para. 93).

The Committee also considers necessary to recall that “the aim and purpose of the Charter, being a human rights protection instrument, is to protect rights not merely theoretically, but also in fact” (*International Commission of Jurists v. Portugal*, Complaint No. 1/1999, decision on the merits of 9 September 1999, para. 32).

In particular, the Committee has interpreted the scope of Article 30 as relating both to protection against poverty (understood as involving situations of social precariousness) and protection against social exclusion (understood as involving obstacles

to inclusion and citizen participation), in an autonomous manner or in combination with other connecting provisions of the Charter (Statement of interpretation on Article 30, Conclusions 2013).

Therefore the Committee emphasizes the very close link between the effectiveness of the right recognized by Article 30 of the Charter and the enjoyment of the rights recognized by other provisions, such as the right to work (Article 1), access to health care (Article 11), social security allowances (Article 12), social and medical assistance (Article 13), the benefit from social welfare services (Article 14), the rights of persons with disabilities (Article 15), the social, legal and economic protection of the family (Article 16) as well as of children and young persons (Article 17), right to equal opportunities and equal treatment in employment and occupation without sex discrimination (Article 20), the rights of the elderly (Article 23) or the right to housing (Article 31), without forgetting the important impact of the non-discrimination clause (Article E), which obviously includes non-discrimination on grounds of poverty.

Furthermore, the Committee emphasises that the focus on Article 30 is not simply on financial aid and social transfers. Social transfers may significantly reduce the level of poverty, but they do not remove its roots. Once again, it may be highlighted that Article 30 obliges the States Parties to demonstrate an overall approach to the reduction of poverty, considering all aspects of poverty and its related social problems. However, the Committee notes that only 15 Council of Europe Member States are bound by the provisions of Article 30.

In addition, the Committee emphasizes the importance of the collective complaints procedure in the fight against social exclusion. Among the most important recent decisions of the Committee relating to Article 30 are the following: *Médecins du Monde - International v. France*, Complaint No. 67/2011, decision on the merits of 11 September 2012; *European Roma and Travellers Forum (ERTF) v. France*, Complaint No. 64/2011, decision on the merits of 24 January 2012; and *International Federation of Human Rights (FIDH) v. Belgium*, Complaint No. 62/2010, decision on the merits of 21 March 2012.

In conclusion, the Committee invites States Parties to the Charter which have not yet accepted the revised Charter, including its Article 30, and the collective complaints procedure, to do so as soon as possible.

COMMENTS ON RECOMMENDATION 361 (2014) OF THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

“PROMOTING EQUAL OPPORTUNITIES FOR PERSONS WITH DISABILITIES AND THEIR PARTICIPATION AT LOCAL AND REGIONAL LEVELS”

30 January 2015

The European Committee of Social Rights welcomes Recommendation 361 (2014) of the Congress of Local and Regional Authorities on Promoting equal opportunities for persons with disabilities and their participation at local and regional levels.

The Committee fully supports the proposals made by the Congress to the Committee of Ministers relating to the strengthening of activities undertaken by the States Parties to protect the rights of persons with disabilities. The Committee fully shares the view expressed in the Recommendation that indicates the necessity to implement relevant mechanisms facilitating persons with disabilities to exercise their rights at both national and regional levels.

It recalls that the Revised European Social Charter is the most significant treaty at the European level for the rights of persons with disabilities. Article 15 of the Charter imposes a number of obligations on the States Parties to ensure that persons with disabilities, irrespective of their age, the nature and origin of their disability, effectively exercise their right to independence, social integration and participation in the life of the community. In particular, this provision imposes an obligation to provide the persons with disabilities with guidance, education, and vocational training (Article 15§1), to support persons with disabilities in their access to employment (Article 15§2) and to support full social integration and the participation of the persons with disabilities in the life of the community (Article 15§3).

The European Committee of Social Rights views Article 15 of the Revised Charter as both reflecting and advancing a profound shift of values in all European countries over the past decade away from treating them as objects of pity and towards respecting them as equal citizens (see for example *Autism-Europe v. France*, Complaint No. 13/2002, decision on the merits of 4 November 2003, §48). The underlying vision of Article 15 is one of equal citizenship for persons with disabilities and, fittingly, the primary rights are those of “independence, social integration and participation in the life of the community”.

To comply with Article 15, the states’ domestic law must guarantee the undertaking of all necessary measures that allow persons with disabilities participation in professional life and the life of the community on an equal footing with those without disabilities. Compliance by the States Parties with the obligations imposed under Article 15 shall allow persons with disabilities full inclusion in the life of the community, especially that of the local community.

In order to fully include persons with disabilities in social and professional life, it is essential to ensure to persons with disabilities guidance, education, and vocational training in the framework of mainstream educational institutions and organisations or, where this is not possible, through the establishment of specialised bodies, public or private. Article 15§2 requires states to promote access to employment on the open labour market for persons with disabilities. To this end, legislation must prohibit disability-based discrimination in employment and provide for reasonable accommodation measures.

The Committee wishes to draw special attention to the above-mentioned Article 15§3 of the Revised European Social Charter. This provision requires states to remove barriers to the full integration of persons with disabilities and to take measures to ensure their full participation in the life of the community. The above shall not be limited only to measures involving the development of facilities with regard to access employment, vocational guidance or use, on an equal footing with persons without disabilities, of means of transport, housing, cultural activities and leisure. The provision also requires

the states' domestic law to ensure the integration of persons with disabilities into political life (including the guarantee of the right to vote and to stand as a candidate in elections as it is rightly mentioned in the Congress Recommendation).

Pursuant to Article 15 §3, it is necessary to ensure the adoption of a coherent policy in the disability context. Such a policy should comprise positive action measures to achieve the goals of social integration and full participation of persons with disabilities. Additionally, such measures should have a clear legal basis and be coordinated by relevant institutions.

To comply with the obligations imposed under Article 15 it shall not be sufficient to introduce relevant regulations guaranteeing protection of the rights of persons with disabilities into domestic law. The European Committee of Social Rights has many times indicated that the implementation of the Charter requires the States Parties to take not merely legal action, but also practical action to give full effect to the rights recognised in the Charter. When the achievement of one of the rights in question is exceptionally complex and particularly expensive to resolve, a State Party must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources.

Following the most recent examination of national reports on the implementation of Article 15 of the Charter (Conclusions 2012, Conclusions XX-1), the Committee found that some States Parties to the Charter did not comply with this provision primarily because regulations prohibiting the discriminatory treatment of persons with disabilities with regard to the specific spheres of social and professional life had not been implemented into domestic laws. The Committee pays systematic attention to this particular issue and it deferred its conclusions in respect of several other States Parties, pending more detailed information. Moreover, observance of the rights of persons with disabilities has also been considered under the collective complaints procedure.

The Committee recalls that the rights of the persons with disabilities as expressed in the Charter are treated as norms that warrant the protection of human rights. The guarantee of protection awarded to persons with disabilities is an example of the "living" dependence between the protection of social rights and the right of everyone to dignity.

While welcoming the proposal to ratify the 2006 UN Convention on the Rights of Persons with Disabilities by the states that have not yet done so, and while concurring with the general tenor of the Congress Recommendation, the Committee, in view of the foregoing comments, considers it regrettable that the Congress Recommendation fails to mention the Charter. The Committee therefore invites the Committee of Ministers to emphasise, in its reply, the fundamental importance of the Revised European Social Charter for the rights of persons with disabilities in Europe and to encourage states to ratify it, including all the paragraphs of Article 15.

In addition, considering the value of the collective complaints procedure in protecting the rights of persons with disabilities, the Committee also invites the Committee of Ministers, in its reply, to highlight the importance of more states accepting the

collective complaints procedure. Within the procedure of collective complaints the Committee has on several occasions examined the situation of persons with disabilities, not only in the light of above-mentioned Article 15 but also under other provisions such as Article 13, Article 14, Article 16 or Article 30 of the Charter (see for example *European Action of the Disabled (AEH) v. France*, Complaint No. 81/2012, decision on the merits of 11 September 2013; *International Federation for Human Rights (FIDH) v. Belgium*, Complaint No. 75/2011, decision on the merits of 18 March 2013; *Autism-Europe v. France*, Complaint No. 13/2002, decision on the merits of 4 November 2003).

Annexe 9.

Recent judicial decisions referring to the European Social Charter

Domestic courts

BELGIUM

- ▶ Constitutional Court, No. 32/2015, 12 March 2015 (reference to articles 3 and 11 of the European Social Charter);
- ▶ Constitutional Court, No. 98/2015, 25 June 2015 (reference to article 4.4 of the European Social Charter)
- ▶ Constitutional Court, No. 139/2015, 15 October 2015 (reference to articles 2 and 4 of the European Social Charter)
- ▶ Council of State, No. 230.297, 13 February 2015 (reference to article 6.2 of the European Social Charter)
- ▶ Labour Court of Brussels, No. 2013/AB/614, 13 May 2015 (reference to case law of the European Committee of Social Rights 90/2013 – 86/2012)

SPAIN

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 - Employment tribunal no. 2 of Barcelona decision no. 412 of 19 November 2013
 - Employment tribunal no.1 of Tarragona decision no. 179 of 2 April 2014
 - Employment tribunal no.1 of Mataró decision no. 144 of 29 April 2014
 - Employment tribunal no.3 of Barcelona decision no. 352 of 5 November 2014
 - Employment tribunal no.19 of Barcelona decision no. 491 of 17 November 2014
 - Employment tribunal no.1 of Toledo decision no. 667 of 27 November 2014
 - Employment tribunal no.9 of Gran Canaria decision no. 705 of 31 March 2015
 - Employment tribunal no. 2 of Fuerteventura decision no. 58 of 31 March 2015
 - Employment tribunal no.1 of Toledo decision no. 202 of 9 April 2015
 - Employment tribunal no.1 of Las Palmas decision no. 74 of 11 May 2015
 - Employment tribunal no.1 of Las Palmas decision no. 896 of 3 June 2015
- ▶ Direct effect of Article 12.3 of the European Social Charter, decision on the merits of 7 December 2012; Complaints nos 76 to 80/2012 v. Greece
 - Employment tribunal no.31 of Barcelona decision no. 219 of 8 June 2015
 - Employment tribunal no.12 of Barcelona decision no. 220 of 4 September 2015
 - Employment tribunal no.12 of Barcelona decision no. 291 of 7 September 2015

- Employment tribunal no.12 of Barcelona decision no. 37 of 5 November 2015
- Employment tribunal no.3 of La Coruña decision no. 493 of 23 November 2015 (reference to the European Social Charter and complaint no. X/Y of 7/12/2012).
- ▶ Direct effect of Article 2 of the European Social Charter, Decision on the merits of 23 June 2010, *Confédération générale du travail* (CGT) v. France (complaint no. 55/2010) and Conclusions CEDS XX-3 (2014) Spain
 - Employment tribunal no.3 of Barcelona decision no. 321 of 27 October 2015

ITALY

- ▶ Constitutional Court, Decision No. 178 of 24 June (23 July) 2015 (reference to article 6 of the Revised European Social Charter to the Additional Protocol to the Charter of 1995).
- ▶ Court of Cassation (the Italian Supreme Court), *Labour Division*, Decision No. 16302 of 3 August 2015 (reference to article 4(1) of the European Social Charter).
- ▶ Regional Administrative Court of Lombardy (Tribunale Amministrativo Regionale della Lombardia – TAR), Milan, *Section I*, Decision No. 908 of 7 April 2014 (reference to articles 23, 30 e 31 of the Revised European Social Charter).
- ▶ Order of the *Tribunale di Roma* (Civil Section) of 30 May 2015 (reference to the Decision on Complaint No. 27 and Conclusions 2011);

SLOVENIA

- ▶ Constitutional Court, conclusion No. U-I-282/13, Up-925/13 of 12 March 2015 – ECLI:SI:USRS:2015:U.I.282.13 (reference to article 10 and to the Appendix of the Charter)
- ▶ Supreme Court, judgment No. VIII Ips 80/2015 of 12 May 2015 – ECLI:SI:VSRS:2015:VIII.IPS.80.2015 (reference to article 4§2 of the Charter)
- ▶ Higher Labour and Social Court, judgment No. Pdp 1559/2014 of 14 May 2015 – ECLI:SI:VDSS:2015:PDP.1559.2014 (reference to article 4§2 of the Charter)

PORTUGAL

- ▶ Supreme Court (Supremo Tribunal de Justiça), decision of 9 September 2015, case No. 180/10.7TTVRL.PS1 (reference to Article 1 §1 – The right to work)
- ▶ North Administrative Central Court (Tribunal Central Administrativo do Norte), case No. 00309/11.8BECBR, decision of 19 November 2015 (reference to Article 4 – The right to a fair remuneration)
- ▶ Oporto Court of Appeal (Tribunal da Relação do Porto), decision of 16 November 2015, case No. 250/14.2TTPRT.P1 (reference to Articles 2 and mostly 4 – The right to a fair remuneration)
- ▶ Oporto Court of Appeal (Tribunal da Relação do Porto), decision of 4 November 2015, case No. 718/07.7TAVFR.P1 (reference to Article 4 – The right to a fair remuneration)
- ▶ Guimarães Court of Appeal (Tribunal da Relação de Guimarães), decision of 26 November 2015, case No. 3550/14.8T8GMR.G1 (reference to Article 4 – The right to a fair remuneration)

- ▶ Évora Court of Appeal (Tribunal da Relação de Évora), decision of 26 June 2015, case No. 789/13.7TMSTB-B.E1 (reference to Article 17 –The right of children and young persons to social, legal and economic protection)

TURKEY

- ▶ Constitutional Court, Individual application, no. 2014/7668 (date of decision, 10/6/2015), (Reference to Article 5 of the Charter)
- ▶ Constitutional Court No. 2015/49, 14.5.2015 (Reference to Articles 2, 5 and 6 of the Charter)
- ▶ Constitutional Court No. 2014/161, 22.10.2014 (Reference to Articles 5 and 6 of the Charter)
- ▶ Constitutional Court No. 2014/166, 07.11.2014 (Reference to Article 2 of the Charter)
- ▶ Constitutional Court No. 2014/125, 03.07.2014, (Reference to Article 1 of the Charter)
- ▶ Court of Cassation, Employment Division, No. 2014/12368, 04.06.2014 (Reference to Articles 5 and 6 of the Charter)

EUROPEAN COURT OF HUMAN RIGHTS

- ▶ Case « Sargsyan v. Azerbaijan », application n. 40167/06 », judgement of Grand Chamber of 16 June 2015 - final (general reference to the Social Charter);
- ▶ Case « Chiragov and others v. Armenia », application n. 13216/05, judgement of Grand Chamber of 16 June 2015 - final (general reference to the Social Charter);
- ▶ Case « Chitos v. Grèce », application n. 51637/12, judgement of 4 June 2015 – final 16 October 2015 (reference to Article 1 § 2 of the Social Charter);
- ▶ Case Manole and « Romanian farmers direct » v. Romania, application n. 46551/06, judgement of 16 June 2015 – final 16 September 2015, (general reference to the Social Charter);
- ▶ Case « Junta rectora del ertzainen nazional Elkartasuna (ER.N.E.) v. Spain », application n. 45892/09, judgement of 21 April 2015 – final 14 September 2015, (reference to Article 5 of the revised Social Charter);
- ▶ Case “V.M. and others v. Belgium », application n. 60125/11, judgement of 7 July 2015 – referral to the Grand Chamber of 14/12/2015 (reference to Article 17 and to *Défense des Enfants International (DEI) v. Belgium*, complaint n. 69/2011, decision on the merits of 7 December 2011);
- ▶ Case « Ismail Sezer v. Turkey », application n. 36807/07, judgement of 24 March 2015 – final 24 June 2015 (reference to Article 5 of the revised Social Charter);
- ▶ Case « Dolopoulos v. Grèce », application n. 36656/14, decision on non-admissibility – final 10 December 2015, (reference to Article 26 of the Social Charter).

Appendix 10.

Main meetings with the participation of the European Committee of Social Rights and its Secretariat in 2015

1. Meetings organised by the Department of the European Social Charter

Moscow (Russian Federation), 10 April 2015

Meeting on the non-accepted provisions of the European Social Charter.

Yakutsk (Russian Federation), 8-9 June 2015

Council of Europe Seminar on "The European Social Charter – on the way to human rights".

Podgorica (Montenegro), 5 May 2015

Meeting on the non-accepted provisions of the European Social Charter.

Sofia (Bulgaria), 18 June 2015

Meeting on the non-accepted provisions of the European Social Charter. .

Strasbourg (France), 29 June 2015

Informal exchange of views of the Secretariat with Governmental representatives on recent developments and practical modalities of the collective complaints procedure.

Tbilisi (Georgia), 3 September 2015

Meeting on the non-accepted provisions of the European Social Charter.

Yerevan (Armenia), 28 September 2015

Meeting on the non-accepted provisions of the European Social Charter.

Strasbourg (France), Palais de l'Europe, 15 October 2015

Strat-up meeting of the Thematic Platform on Social Rights COE-FRA-ENNHRI-EQUINET : European Union Agency for Fundamental Rights (FRA), European Network of Equality Bodies (Equinet) et European Network of National Human Rights Institutions (ENNHRI).

Kiev (Ukraine), 28 October 2015

Seminar on the European Social Charter: "The European Social Charter: towards a better protection of social rights in Ukraine"

Strasbourg (France) / Brussels (Belgium), 29 October 2015

General training on the European Social Charter for the CoE Office in Brussels.

Paris / Strasbourg (France), 24-27 November 2015

Study visit on the ESC for Russian social workers.

Strasbourg (France), 10 December 2015

Internal General Training on the European Social Charter.

2. Meetings organised by the CoE Parliamentary Assembly

Strasbourg (France), 21 April 2015

Meeting with the President of the Sub-Committee on the European Social Charter of the Parliamentary Assembly and Senator of the Netherlands, T. ELZINGA, concerning the Committee of Ministers Resolution on the Netherlands.

Strasbourg (France), 23 April 2015

Meeting with J. XUCLA, Rapporteur on Monaco, M. NICOLETTI and two members of the Parliament of Monaco to set up a Working Group on the ratification of the Revised European Social Charter.

Chisinau (Republic of Moldova) 18 May 2015

Regional seminar within the project: "Support the full execution of the European Court of Human Rights judgments and build the capacity of EaP national parliaments towards greater conformity of national legislation with the European Social Charter

3. Meetings organised by, or in cooperation with, other departments of the Council of Europe or other organisations

Brussels (Belgium), 12-13 February 2015

Conference on "The Future of the Protection of Social Rights in Europe », organised within the Belgian Chairmanship of the Committee of Ministers of the Council of Europe.

Strasbourg (France), 2 February 2015

Meeting on social activities, organised for the Permanent Representations of the 47 Member States of the Council of Europe, on the initiative of Ambassador VUKADINOVIC (Montenegro), President of GR-SOC.

Brussels (Belgium), 9 March 2015

Meeting with the President of the Conference of INGOs of the Council of Europe and the President of the Social Platform.

Strasbourg (France), European Youth Centre, 10 March 2015

Study session of FEANTSA's Youth homelessness network.

Strasbourg (France), Administrative Tribunal of the Council of Europe, 19-20 March 2015
Seminar on « *Convergences et autonomie des tribunaux administratifs. Situation du personnel du Conseil de l'Europe au regard de la Charte sociale européenne* ».

Strasbourg (France), European Court of Human Rights, 31 March 2015

Presentation of the European Social Charter at the training session on human rights organised for the delegation of English speaking judges and prosecutors from the European Judicial Training Network.

Brussels (Belgium), 23 April 2015

Meeting with representatives of the "Social Platform" and the Conference of INGOs of the Council of Europe.

Strasbourg (France), 12 May 2015

2nd Meeting of the Committee of Experts on the Council of Europe Strategy for the Rights of the Child.

Strasbourg (France), European Court of Human Rights, 20 May 2015

Presentation of the European Social Charter at the training session on human rights organised for the magistrates of the National School for Magistrates (*Ecole Nationale de la Magistrature*).

Strasbourg (France), European Court of Human Rights, 2 June 2015

Presentation of the European Social Charter at the training session on human rights organised for the delegation of English speaking judges and prosecutors from the European Judicial Training Network.

Strasbourg (France), European Youth Centre, 22 June 2015
Premier séminaire sur la formation de longue durée des formateurs en matière de l'éducation non-formelle.

Strasbourg (France), 23 June 2015
Meeting of the Committee on Human Rights of the Conference of INGOs.

Rome (Italy), 22 July 2015
Exchange of views between the President of the European Committee of Social Rights and the Italian delegation to the Parliamentary Assembly of the Council of Europe.

Strasbourg (France), European Court of Human Rights, 15 September 2015
Presentation of the monitoring mechanisms of the European Social Charter at the training session on human rights organised for the delegation of judges and prosecutors from the European Judicial Training Network.

Strasbourg (France), Conseil de l'Europe, 15 September 2015,
Présentation sur la Charte sociale européenne aux étudiants en Master des Organisations Sanitaires et Sociales de Paris.

Brussels (Belgium), 22 September 2015
Training for non-governmental organisations, organised by the Conference of INGOs and the Social Platform: "How to make the best use of the Collective Complaints procedure under the European Social Charter".

Strasbourg (France), 9 October 2015
Presentation of the European Social Charter to the delegation of Directors of European Social organisations.

Strasbourg (France), European Court of Human Rights, 28 October 2015
Presentation of the European Social Charter to the Office of the Turkish Mediators.

Strasbourg (France), European Court of Human Rights, 3 November 2015,
Presentation of the European Social Charter to English speaking judges and prosecutors from the European Judicial Training Network (EJTN-REFJ).

Appendix 11.

Selection of meetings and training sessions, seminars, conferences and colloquiums

1. Meetings organised by or in cooperation with other international organisations

Strasbourg (France), 2 February 2015
European Forum of Bioethics

Geneva (Switzerland), 11 March 2015
Launch of OHCHR Publication on “The Economic, Social and Cultural Rights of Migrants in an Irregular Situation”

Brussels (Belgium), 27 April 2015
Conference on Social Protection in the post-2015 UN Agenda

Berne (Switzerland), 30 April 2015
Informal meeting with Ambassador J. LINDENMANN on the ratification process
Section suisse de la Commission Internationale des Juristes “Les droits sociaux - un thème suisse”

Strasbourg (France), 4 June 2015
Annual conference of the HELP Network, Presentation on “The importance of training on the European Social Charter for legal and other professionals”

Strasbourg (France), 12 November 2015
HELP in the 28, 3rd meeting of the Working group on Labour rights

2. Conferences organised by the European Union

Riga (Latvia), 5-6 May 2015
Meeting of the MISSOC Network

Luxembourg, 14-17 October 2015
Meeting of the MISSOC Network

3. Seminars organised by or in cooperation with social partners

Brussels (Belgium), 23 January 2015
Seminar CES-TTUR “The European Social Charter and the Employment Relation”

Brussels (Belgium), 10 March 2015
CESI Commission for Social Affairs meeting

Hague (The Netherlands), 3 November 2015
OIT/CoE Informal meeting on the Netherlands’ report on Social Security Code

4. Meetings organised by non-governmental organisations

Dublin (Ireland), 14-15 May 2015
Seminar of the International Federation of Human Rights Leagues (FIDH) on austerity and human rights

Yakutsk (Russian Federation), 8-9 June 2015

EuroAsia Forum of Social Workers

Paris (France), 18 June 2015

Colloquium on Housing Rights Watch

« *La Charte sociale européenne – les obligations dégagées par la jurisprudence du Comité des droits sociaux du Conseil de l'Europe en matière de droit au logement* »

Paris (France), 19 June 2015

Conférence politique annuelle de la Fédération européenne des Associations nationales travaillant avec les Sans-abri (FEANTSA)

Warsaw (Poland), 3 November 2015

Conference on “Harassment, discrimination, burnout. Modern trends in management and work organization”, organised by the Polish Judges Association Iustitia

5. Colloquiums organised by different universities

Paris (France), Collège de France, 6 February 2015

International seminar on “Quis custodiet ipsos custodes?”

Oxford, (United Kingdom), Oxford University, 10 February 2015

Conference on the right to strike of the European Social Charter

Stockholm (Sweden), 16-17 February 2015

Presentation of the collective complaint n° 85/2012 at the International university conference and seminar “Swedish Labour Law and Industrial Relations after Laval”

Stockholm (Sweden), 20 February 2015

Oxford University and the Swedish Confederation of Professional Employees (TCO) University Seminar on “Viking, Laval and Beyond”, Presentation and comments on the Complaint LO and TCO c. Sweden, n°85/2012 from the point of view of the European Social Charter

Moscow (Russian Federation), MGIMO, 27-28 April 2015,

Seminar of the European Studies Institute MGIMO / CoE-DGI on “European human rights protection mechanisms”

Oxford (United Kingdom), 15 May 2015

“Protection by interpretation - how labour rights are protected by the European Committee of Social Rights”

Paris (France), Ecole Normale Supérieure (ENS), 29 May 2015

Grammars of Equality, Conceptual platform of equality and anti-discrimination law

Albacete (Spain), University of Castille-La Manche, 25 June 2015

Conference on the European Social Charter and its application by national courts “The importance of the European Social Charter and its monitoring mechanisms”

Amsterdam (The Netherlands), Studienstiftung des deutschen Volkes Foundation, 24-25 September 2015

“The European Social Charter and the challenges social rights are facing in the current economic and financial context”

Valence (Spain), 22-23 October 2015

International Congress on “Social Rights and Policies in Europe: current challenges and possible solutions for a way out of the crisis”

Turku (Finland), 19 November 2015

Workshop: When the Going Gets Tough: Human Rights in Times of Economic Hardship, “Social rights under pressure in the EU – the potential of the European Social Charter”

Frankfurt (Germany), 25 November 2015

First Conference on International Labour Standards, “European Union and Council of Europe – their relationship in the area of fundamental (social) rights”

6. Other meetings

Sochi (Russian Federation), 13 to 17 April 2015

First All Russia Labour Protection Week. Presentation of Article 3 of the European Social Charter

Aix-en-Provence (France), 18 April 2015,

Maison de l'Europe de Provence, Forum citoyen.

Présentation de la décision APPROACH c. France

Strasbourg (France), 2 June 2015

Euro Stammtisch

The ban on smacking by the European Social Charter

Minsk (Belarus), 16-17 June 2015

Conference of CoE-OSCE/ODIHR – Gender Equality: the Role of Women in Political and Public Life

“Social protection of women and labour rights according to the European Social Charter”, organised by the Council of Europe Information Point in Minsk and the Belarusian State University, with the support of the Ministry of Foreign Affairs of Belarus

Santander (Spain), 17-18 September 2015

Annual meeting of the Spanish national and regional mediators on the right to housing

Sarajevo (Bosnia and Herzegovina), 17-18 September 2015

Conference on “New opportunities in the employment of young people and women in the Western Balkans”, organised by the Ministry of Human Rights and Refugees of Bosnia and Herzegovina and the European Social Charter

Kiev (Ukraine), 28 October 2015

Seminar on the European Social Charter “The European Social Charter: towards a better protection of social rights in Ukraine”

Appendix 12.

Statement of interpretation on the rights of refugees under the European Social Charter

(elaborated during the 280th session of the European Committee of Social Rights in Strasbourg, 7-11 September 2015)

30 January 2015

The function of the European Committee of Social Rights is to rule on the conformity of States Parties' national law and practice with the European Social Charter (revised), the 1988 Additional Protocol and the 1961 European Social Charter.

The Committee is composed of 15 independent, impartial members who are elected by the Committee of Ministers of the Council of Europe for a term of office of six years, renewable once.

It adopts conclusions within the framework of the reporting procedure and decisions under the collective complaints procedure.

Its conclusions and decisions are available on the website of the European Social Charter and in the case law database available on this site.

www.coe.int/SocialCharter

1. The Committee emphasises the urgent and unconditional need to treat with solidarity and dignity the men, women and children who arrive on European territory, and who have a right under international law and the relevant national and European laws to the protection of European States as refugees, as described by the 1951 Convention on the Status of Refugees. It is even more important in light of the current humanitarian crisis resulting from the exodus of such people from their homes. Those people are driven by circumstances which prevail in their homelands to seek refuge from war, terror, torture or persecution, and to build a safer and better life for themselves outside the borders of their country of origin. Their proper integration into the European societies which welcome them is the best way to ensure their safety and well-being.

2. The Committee considers that the obligations undertaken by the States Parties by virtue of the European Social Charter are appropriate to promote and to firmly establish the prompt social integration of refugees in the host societies. It recalls that these obligations require a response to the specific needs of refugees and asylum seekers, such as courses for learning the language of the host state; the recognition of their qualifications; the liberal administration of the right to family reunion; and the right to undertake gainful employment and thus contribute to the economy.

3. The Committee underlines that States Parties must ensure that everyone within their territory is treated with dignity and without discrimination. This means not only to ensure respect for their civil rights, but also to support their physical and mental integrity, and to recognise their fundamental human needs of community and belonging. The fundamental rights of every human being which bind the

international community are universal, indivisible and interdependent. The social and economic integration of every individual is an essential part of their right to lead a dignified life.

4. In recognition of this, the Committee reiterates that the rights guaranteed by the Charter are to be enjoyed to the fullest extent possible by refugees (cf. Conclusions XVII-1 (2004), Statement of Interpretation on the personal scope of the Charter). It recalls that it has held that certain rights afforded by the Charter apply to refugees and other vulnerable groups, for example Article 17 (Conclusions 2003, Bulgaria), Article 13 (Conclusions 2013, Bosnia and Herzegovina) and Article 31 (FEANTSA v. the Netherlands, Complaint No. 86/2012, Decision on the Merits of 2 July 2014). It recalls that it has previously outlined the protection of stateless persons under the Charter (Conclusions 2013, Statement of Interpretation on the rights of stateless persons). The Committee adds to that reasoning the following observations.

5. The Appendix forms an integral part of the Charter, and the interpretation thereof, in the light of its object and purpose, is thus entrusted to the European Committee of Social Rights. The Appendix to the Charter reads:

"2. Each Party will grant to refugees as defined in the Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 [and in the Protocol of 31 January 1967]⁴⁰, and lawfully staying in its territory, treatment as favourable as possible, and in any case not less favourable than under the obligations accepted by the Party under the said convention and under any other existing international instruments applicable to those refugees."

6. Article 1A of the 1951 Convention relating to the Status of Refugees (CSR), read in conjunction with Article 1 paragraph 2 of the 1967 Protocol⁴¹, defines a refugee as follows:

"For the purposes of the present Convention, the term "refugee" shall apply to any person who:

(2) owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear, is unwilling to return to it."

A refugee as contemplated by the CSR and its 1967 Protocol is thus anyone who has fled the country of his nationality or habitual residence, and is unwilling, through well-founded fear of being persecuted, to return to it. Having regard to the above

40. The 1967 Protocol does not appear in the Appendix to the 1961 Charter, however, all of the States bound by the 1961 Charter as of 7 September 2015 have also ratified the 1967 Protocol.

41. In respect of Turkey, the instrument of accession stipulates that "the Government of Turkey maintains the provisions of the declaration made under section B of article 1 of the Convention relating to the Status of Refugees, done at Geneva on 28 July 1951, according to which it applies the Convention only to persons who have become refugees as a result of events occurring in Europe, and also the reservation clause made upon ratification of the Convention to the effect that no provision of this Convention may be interpreted as granting to refugees greater rights than those accorded to Turkish citizens in Turkey."

definition, the Committee underlines that the protection of a refugee under the CSR, and his or her resultant protection under the Charter, does not depend on the administrative recognition of refugee status by a State, which is done by the granting of asylum.

7. The Committee recalls that the Charter is a living instrument dedicated to the values which inspired it, namely dignity, autonomy, equality and solidarity. It must be interpreted so as to give life and meaning to fundamental social rights (FIDH v. France, Complaint No. 14/2003, Decision on the Merits of 8 September 2004, §29). The Charter should also so far as possible be interpreted in harmony with other rules of international law (Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, Decision on the Merits of 20 October 2009, §35).

8. In this respect, the Committee points out that Article 25 paragraph 1 of the United Nations Universal Declaration of Human Rights sets out the following with regard to the universal right to an adequate standard of living:

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

9. The Committee further notes that the Committee of Ministers of the Council of Europe in its Recommendation No. R(2000)3 (Adopted on 19 January 2000 at the 694th meeting of the Ministers’ Deputies), has recommended that Member States:

“[...] recognise, at national level, an individual universal and enforceable right to the satisfaction of basic material needs (as a minimum: food, clothing, shelter and basic medical care) for persons in situations of extreme hardship.”

“The exercise of this right should be open to all citizens and foreigners, whatever the latter’s position under national rules on the status of foreigners, and in the manner determined by national authorities.”

10. Having in mind the same concerns, the Committee recalls that in European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, Decision on the Merits of 2 July 2014, it held that the right to emergency shelter and to other emergency social assistance is not limited to those belonging to certain vulnerable groups, but extends to all individuals in a precarious situation, pursuant to the principle of upholding their human dignity and the protection of their fundamental rights. The Committee considers that certain social rights directly related to the right to life and human dignity are part of a “non-derogable core” of rights which protect the dignity of all people. Those rights therefore must be guaranteed to refugees, and should be assured for all displaced persons.

11. The wording of the Appendix to the Charter demonstrates the express undertaking to provide “treatment as favourable as possible” to the persons it covers. The Committee thus considers that the rights contained in the Charter should as far as possible be guaranteed to refugees on an equal footing with other persons subject to the jurisdiction of the host State. It is therefore incumbent upon them to take meaningful steps towards the achievement of equality for refugees under each

article of the Charter by which they are bound. In any case, as is expressly stated in the Appendix to the Charter, the treatment of refugees must not be less favourable than that guaranteed by the CSR. When the achievement of a right in question is exceptionally complex and particularly expensive to resolve, States Parties must attempt to achieve the objectives of the Charter within a reasonable time, with measurable progress and making maximum use of available resources (cf. *Autism-Europe v. France*, Complaint No. 13/2002, Decision on the Merits of 4 November 2003, §53).

12. The CSR grants social and economic rights to refugees with reference to three levels of protection. Article 7 paragraph 1 CSR provides that “[e]xcept where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally”. Other provisions of the Convention guarantee that States Parties afford refugees treatment equal to that of nationals, while some provide for “the most favourable treatment accorded to nationals of a foreign country”, and others “treatment as favourable as possible, and in any event, not less favourable than that accorded to aliens generally in the same circumstances”.

13. The CSR coincides with the Charter in guaranteeing many social and economic rights to refugees.

14. Refugees must be accorded treatment equal to nationals in respect of elementary education (Article 22 CSR), which is guaranteed by Article 17§1 of the Charter; and public relief and assistance (Article 23 CSR), which is accorded under Article 13 of the Charter (social and medical assistance) and implied by Article 30 of the Charter (the right to protection against poverty and social exclusion).

15. Labour legislation and social security (Article 24 CSR) are the areas of greatest correspondence between the two instruments. The following Articles of the Charter all cover rights for which the CSR guarantees the same treatment as nationals: Article 2 (working hours, holidays with pay, overtime arrangements); Article 4 (remuneration); Article 6 (the enjoyment of the benefits of collective bargaining); Article 7 (a minimum age of employment, young persons’ employment rights and apprenticeships); Article 8 (rights of women in the workplace); Article 10 (training opportunities); Article 11 (healthcare); Article 12§§1, 2, 3 (the right to social security covering healthcare, sickness, unemployment, old age, employment injury or disease, family benefits and maternity benefits); Article 16 (family benefits); 19§7 (access to courts); and Article 23 (rights of the elderly).

16. The CSR guarantees the right to the most favourable treatment accorded to nationals of a foreign country in respect of the right to belong to trade unions (Article 15 CSR), which is guaranteed by Articles 5 and 19§4 of the Charter; and the right to engage in wage-earning employment (Article 17 CSR), which is guaranteed by Articles 1 and 18 of the Charter.

17. Finally, the CSR guarantees treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, in relation to the right to self-employment (Article 18 CSR), which is covered in Article 1 and 18 of the Charter; the right to access to housing (Article 21 CSR), which is dealt with under Articles 16 and 31 of the Charter; and the right to further education

(Article 22 CSR), which is guaranteed by Article 10 (vocational education) and Article 17 (secondary education) of the Charter.

18. The rights contained within the CSR are to be guaranteed without discrimination (Article 3 CSR). Certain articles of the Charter explicitly prohibit discrimination in a number of circumstances (e.g. Article 15(2) (discrimination in employment); Article 15 (discrimination on the grounds of disability); Article 20 (discrimination on grounds of sex)). The application of the rights guaranteed by the Charter must also be secured without discrimination, pursuant to Article E of the Revised Charter, or must take account of the preamble of the 1961 Charter.

19. The CSR guarantees the right to free access to the courts of law, with refugees enjoying the same treatment as nationals in respect of legal assistance or court fees. Many of the Charter provisions require effective mechanisms for their exercise, including the right to appeal against decisions of the relevant authorities. The Committee considers that refugees must enjoy the same treatment in respect of juridical procedures involving their rights under the Charter.

20. Finally, Article 32 of the CSR stipulates that the Contracting States shall not expel a refugee lawfully on their territory save on grounds of national security or public order, in which case expulsion shall take place only in pursuance of a decision reached in accordance with due process of law. The Committee thus considers that refugees must be guaranteed the protection of the Charter in respect of expulsion (cf. Article 19(8)) on an equal footing with nationals of other States Parties to the Charter.

21. The Committee therefore requests that all States Parties provide up-to-date and complete information relevant to the situation of refugees and displaced persons on their territory, in their reports concerning the rights identified in this Statement of Interpretation. Where specific measures apply to such persons these should be clearly described, and any difference of treatment in relation to the treatment of other persons subject to their jurisdiction should be justified with reference to the principles of Article 31 of the 1961 Charter and Article G of the Revised Charter.

Annexe 13.

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Annexe 14.

EXCHANGE OF VIEWS BETWEEN THE PRESIDENT OF THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS AND THE MINISTERS' DEPUTIES

18 March 2015

Introductory speech by Professor Giuseppe Palmisano,

President of the European Committee of Social Rights

Chairman,

Permanent Representatives,

Secretary General, Madam Deputy Secretary General

It is a real honour for me to address you for the first time on behalf of the European Committee of Social Rights. Our Committee attaches high importance to this exchange of views. Let me therefore express my sincere gratitude for this opportunity, and continuing the now established tradition for recurring exchanges on crucial social rights issues; a tradition initiated during the presidency of my predecessor, Prof. Jimena Quesada.

In my intervention I will refer, first, to the main developments in the Committee's monitoring activities over the past year. Then, I would like to draw your attention to some positive evolutions that have occurred since the last exchange of views in March 2014, in the framework of what is now known as "the Turin process".

As for the past year monitoring activity, let me start by recalling that in 2014 the Committee examined 41 national reports submitted by States Parties on the articles of the Charter relating to labour rights. Our Conclusions, published in January 2015, provide indeed a comprehensive diagnostic of the labour rights situation in Europe.

In this framework positive developments were registered in the majority of States, as well as significant efforts by many States to bring their situations in conformity with the Charter, through the adoption of new legislation, new rules, new practices and new case-law. These changes demonstrate how seriously States Parties take their commitments. In addition, it has to be noted that a high number of situations of non-conformity, involving almost all States, are linked to certain specific and difficult issues, such as, for example, the decrease in lowest wages paid, or in the level of statutory minimum wages considered in comparison with the average wage. These are issues which clearly suffer the negative impact of the economic crisis and of measures concerning the labour market that some States are understandably adopting as a tentative way-out of the crisis. Furthermore, in some cases the situations of non-conformity had already been remedied in the legislation of the States concerned, with the result that the formal finding of non-conformity has become somewhat obsolete and is confined only to the reference period.

This last point shows, in particular, the need to continue working on the reform of the reporting system, so as to render it more "light" in a sense, and to bring it more into line with current-day realities; but it also shows the need to promote acceptance of

the more effective, and I would say “up to date”, collective complaints procedure, in accordance with the spirit of the political Declaration that you adopted in October 2011 on the occasion of the 50th anniversary of the Social Charter.

Having said this, the conclusions published last January confirm however, from a procedural standpoint, a positive element, which already emerged from the Conclusions of 2013. I refer precisely to the fact that the number of deferrals (that is of conclusions in which the Committee is unable to determine the situation’s conformity or non-conformity with the Charter for lack of information provided by the States parties) had decreased considerably in comparison with the Conclusions on the same group of provisions adopted four years ago. This clearly reflects the States Parties’ growing interest and precision with regard to their reporting commitments.

As for the collective complaints procedure, in 2014, 10 new complaints were lodged. In the course of our 7 sessions, we adopted 8 decisions on the merits, 3 decisions on admissibility and 1 decision to strike out a complaint.

I recall that some decisions recently adopted by the Committee concerned important or sensitive issues, such as access to abortion from the perspective of the right to health care; the right of irregular migrants to emergency assistance; the right to strike of members of the police; and the question of corporal punishment of children from the perspective of their right to protection against ill-treatment.

Let me say that our findings of violation in these and other complaints should clearly not be intended as decisions taken against the States concerned. The spirit and purpose of the collective complaints procedure, as the Committee understands it and as is my firm intention to make clear during my presidency, is not to put on trial a State party for its non-compliance with legal obligations deriving from the Charter; the purpose is rather to put the normative prescriptions of the Charter to the test of specific, concrete situations; to identify, by way of an objective evaluation, what a State actually has to do, or must avoid to do, or has to prevent in order to guarantee, in specific situations, the social rights established by our Charter. In other words, its purpose is to give an additional opportunity to the State parties to bring their situation in conformity with Charter and with an adequate protection of social rights.

This is probably the most important added value of the collective complaints procedure, as compared to the reporting procedure. But it is not the only one. The collective complaints procedure is also very important because it opens the door of the Social Charter to the civil society, to NGOs, Trade Unions and the world of workers and employers. This means opening the European system for the protection of social rights to its very beneficiaries, those who are directly and individually interested in the implementation and enjoyment of such rights. This kind of subjects are indeed the best guardians, I would say, of the rights enshrined in the Social Charter.

These are the main reasons why our Committee attaches very high importance to the collective complaints procedure, and why we are grateful to the Committee of Ministers and the GR-SOC when you provide adequate and effective follow-up to the decisions adopted under this procedure.

In this respect let me add that we have many good examples of States spontaneously, I would say, taking into due account our findings in decisions of collective complaints, and promptly adopting measures and initiatives to remedy or improve the situation, and bringing it in conformity with the Charter. And this is very positive. But in other cases creating peer dialogue among States Parties within the Committee of Ministers can indeed be crucial to make more effective the system of protection of social rights provided for by the Charter. And this should be a fundamental aspect of your contribution to the good functioning of the system and, what is most important, to improve respect for social rights in Europe, which is our shared responsibility according to the Social Charter and the Council of Europe goals.

I wish to conclude the first part of my intervention by recalling that the Committee's activity over the past year concerned not only the monitoring work under the reporting procedure and the collective complaints procedure, but also other important institutional functions performed by our Committee. I refer mainly to the Procedure on non-accepted provisions, in the framework of which, in 2014, the Committee examined - in meetings or by written procedure - the actual legal situation and the situation in practice in 11 countries, from the point of view of the degree of conformity of the situation with the provisions of the Charter that they have not accepted yet. And I refer also to our exchanges of views and other fruitful relations of cooperation with the relevant bodies of the United Nations, in particular the UN specialized agency, the International Labour Organisation (ILO) and the Office of the High Commissioner for Human Rights (OHCHR).

But you will find more detailed information on such activities, as well as on the Committee's monitoring work, in our 2014 Activity Report, which will be made public in the coming weeks.

I come now to the second and last part of my intervention, concerning achievements and possible positive prospects of the so-called "Turin process".

You all know that the economic crisis experienced by Europe in last years has revealed the gaps in States' legal arsenal for the protection of fundamental rights, and in particular social rights. But the crisis also represented an opportunity to grasp the importance of achieving such rights, and helped the political conviction growing that respect for social rights constitutes the best way forward to prevent and way out of crises, and – what is even more important – to increase citizens' participation in democratic processes, reinforce their trust in European construction and combat fundamentalism and radicalisation, by promoting inclusion and social cohesion. On this background, there was an urgent need both to bring the European Social Charter back to the centre of the European political stage, allowing it to show its full potential, and to enhance existing synergies, at the European level, to better protect social rights and strengthen the European model, centred on respect for social rights and advanced welfare systems.

The decision to organise a High-Level Conference on the Charter in Turin, on October 2014, and to launch the "Turin process", stemmed precisely from such convictions. Convictions which have been clearly expressed by Secretary General, who – as you know – as made the protection of social rights and the strengthening of the European Social Charter one of the priorities – better, imperatives – of his second term of office.

Let me therefore heartily thank the Secretary General, and Deputy Secretary General, for their intense commitment to the Social Charter and social rights, and for their proactive involvement in launching the Turin process and making future positive developments possible. Let me also thank the Italian Government to host the High-Level Conference in Turin, co-organizing it together with the Council of Europe, in the framework of the Italian Presidency of the European Union.

I wish to thank also the Belgian Chairmanship of the Committee of Ministers for giving an important follow-up to the Turin Conference, by organizing the Brussels Conference on the future of social rights in Europe, on 12 and 13 February 2015, which represented indeed the first major contribution to the “Turin process”. Let me therefore say that it would be good and desirable if also the following chairmanships would follow the excellent example set by Belgium.

The “Turin process” has already generated many interesting ideas and proposals. Most of them can be found in the General Report of the Turin Conference prepared by Michele Nicoletti, Vice-President of the Parliamentary Assembly of the Council of Europe and General Rapporteur of the Conference, and in the Appendices of his General Report. Some of them have also been developed in the framework of the Brussels Conference and Brussels Document.

But it is now essential, in my humble view, that we all move from words and proposals to decisions and action. With this in mind, and recalling that among the main objectives of the Turin process are to strengthen the European Social Charter as an effective source of European law, and increase the impact of the collective complaints procedure as a privileged tool for protecting social rights, let me just mention some desirable initiatives that are of most direct concern to the Committee and which I therefore consider as priorities for my presidency:

- ▶ First and foremost is to enlarge State participation to the Social Charter system, that is to bring about greater acceptance of the Revised Social Charter and the collective complaints procedure. In this respect, it is hardly necessary to remind you that 10 State parties to the Charter have not ratified yet the Revised Social Charter, and that 9 of them are EU Member States. As for the collective complaints procedure, as you know, up to now, only 15 States have accepted it; and some 14 EU Member States have not accepted it yet.
- ▶ Second: to strengthen the dialogue and cooperation between the European Committee of Social Rights and State Parties Governments, at all levels: Committee of Ministers, Governmental Committee and the Government Agents. In this respect, I inform you that there will be very soon a new meeting between our Committee and the Government Agents, continuing the experience initiated on March 2014, which, as you remember, stemmed from a proposal made by the Permanent Representative of Ireland. I think indeed that this kind of meeting is very useful and I will do my best to have other occasions to dialogue with Agents, also through bilateral contacts and meetings.
- ▶ Third: to continue and reinforce dialogue and exchanges with the relevant bodies of the European Union – in particular the Commission, the Economic and Social Committee, and the Court of Justice –, with a view to ensuring that the EU institutions take greater account of the Social Charter, as interpreted

and applied by the Committee, in the EU legislative process and judicial decisions. In this respect, let me recall that, on July 2014, the Committee issued and transmitted to the European Commission a Working Document on “The Relationship between European Union Law and the European Social Charter”; and that on December 2014 the Committee held an exchange of views with the Court of Justice of the European Union, in Luxembourg, on two thematic issues: the relationship between EU law and the Charter, and the economic crisis and social rights.

- ▶ Fourth: to increase the number of members of the European Committee of Social Rights to possibly 21 members, in order both to ensure a better overall balance in the Committee of the different legal traditions and social models in Europe, and to cope with our increasing workload, by allowing further improvement of the Committee’s working methods. This would also provide a much-needed opportunity for a revision of the distribution of States in the groups for the election process.
- ▶ Fifth: to strengthen the status of the Committee and the staff of the services assisting the Committee, and in particular enhance the profile of these services. In fact, the Committee considers that in order to strengthen its role and the performance of its institutional functions, its secretariat should be reinforced and its status should be upgraded; and we have already made proposals to this effect concerning the qualifications and experience of staff, the level of their grades, and their number.

Last but not least: Secretariat, with an help from Governments, should implement a communication policy and co-operation activities able to provide a clear message on the legal nature of the Charter, the decisions of our Committee, and the importance of the monitoring system for the effectiveness of social and economic rights in Europe. This would also put an end to a number of inaccuracies or misunderstandings that continue to circulate in relation to the Charter to the detriment of the achievement of these rights.

Chairman, Ladies and Gentlemen, these are the few thoughts I wished to share with you, as an introduction of our exchange of views. And looking forward to your reactions and views, let me conclude by expressing the hope that we all together will sustain the momentum of the “Turin process”, to ensure that its high aims are translated into reality, and to solidly establish the Council of Europe as the guarantor of social rights and social justice, without which democracy and the rule of law cannot be fully realised, and without which is clearly not possible to confront fully the challenges linked to extremism and radicalization.

Thank you.

Annexe 15.

Belgian Chairmanship of the Council of Europe

Conference on the future of the protection of social rights in Europe Brussels, 12 and 13 February 2015

Session II.

Guarantee of the social rights by the Council of Europe: a bulwark against the crisis

The contribution of the European Social Charter

by Prof. Giuseppe Palmisano (President of the European Committee of Social Rights)

Your Excellencies, ladies and gentlemen, distinguished colleagues.

Since my task is to present the contribution of the European Social Charter, as a guarantee for the protection of social rights in Europe, in our times of economic crisis and way-out of the crisis, I would immediately say, putting aside any false modesty, that this contribution has been, and will continue to be - I hope -, an important and positive contribution.

This should not be very surprising; it is quite the opposite, indeed.

In fact, when talking about the European Social Charter one should always remember something that is well known, of course, but which is not considered enough when assessing the kind of contribution, the role played in Europe, by the system of the Charter.

I precisely refer to the fact that the European Social Charter – which is at the very centre of the “Turin process” – is, at the international level, the most wide-ranging and comprehensive legal instrument for the protection of social rights. The 31 substantive articles of the Revised Charter cover a broad range of individual and collective rights, spanning across many social areas. Among such rights, employment rights – including the right to work and to employment, the rights at work and the right to decent working conditions with respect to pay, working hours, holidays and dismissal protections, as well as the collective rights of workers to organize, to bargain collectively and to form and join trade unions – represent certainly one of the main pillars of the Charter, probably the most traditional one. And social protection is another traditional pillar of the Charter; the Charter addresses indeed all aspects of social protection: it provides for the right to social security in its various branches, such as pensions, sickness cover, unemployment benefits, occupational accident insurance and family benefits; and it guarantees an enforceable right to social and medical assistance for persons in need.

But the Revised Charter goes far beyond employment rights, labour rights and social protection; it provides an overarching approach to what are known today as “societal” issues. I refer, for example, to the right to protection of health, the right to housing, the protection of the family, the protection and education of children and young persons, the right of persons with disabilities to social integration and participation in the life of the community, the right to protection against poverty and

social exclusion (which requires States to adopt a global and coordinated approach to fighting poverty and social exclusion).

Therefore, from the standpoint of persons protected, it is correct to say that the Charter, more than any other international (and European) normative instrument, takes care of the essential social needs of individuals in their daily lives; and the common rationale of all its provisions is the assumption that human beings must have the right to enjoy decent living conditions as members of the organized community in which they live: conditions such as to allow for them to live in dignity, rather than merely survive. At the same time, from the standpoint of the political and legal commitment required by States Parties, it can be said that the European Social Charter, more than any other international instrument, pushes States to provide themselves with an advanced and efficient public welfare system, and to guarantee social justice.

If I have recalled these basic features of the system of the ESC is clearly not to give any special credit to the European Committee of Social Rights, which is only the quasi-judicial monitoring body of the Charter, but rather to give all the due credit to the States that have created it and brought it into being, making such system for the protection of social rights a cornerstone, together with the European Convention of Human Rights, in the construction of the European civilization of human rights, democracy and rule of law.

The task of our Committee is precisely to control and assess, from a legal standpoint, the compliance with the obligations that States themselves have assumed to respect social rights, in order to guarantee that respect for social rights will continue to be not just an original, historical – I would say – cornerstone, but an actual cornerstone in the living European legal, political and social construction.

With this in mind, it is easy to explain and understand what has been in the last years, and still is, the approach, the response of the Charter system to the economic and financial crisis, and to the measures or policies that have put in place to answer to the crisis, in particular with regard to the area of labour rights and social protection.

In fact, in these years, our continuous effort has essentially been to warn Governments and State authorities that economic crisis and austerity measures are very likely to have, and indeed are having, a negative impact on the level of protection and actual enjoyment of the rights enshrined in the Charter. And when this has actually occurred, we have not missed the opportunity to assess and stress it, by clearly stating – first – that adopting given policies and measures, or the lack of certain policies and measures, is not in conformity with the commitments to protect and guarantee social rights that States have assumed under the European Social Charter, and – second – by recalling, from a strictly legal point of view, that this amounts to a violation of international legal obligations imposed on States by a binding European treaty. Furthermore, we have always done this, irrespective of whether the legislation or practice to be assessed was adopted “unilaterally”, by a given State, or – differently – it was induced by, or was due to, a decision of EU institutions or the so-called Troika.

Let me start by recalling that in 2009, which means at the beginning of the economic-financial crisis, the Committee took immediately the opportunity to make a statement, in the General Introduction of its Conclusions, about implementation of the Charter

in the context of the economic crisis. The Committee emphasised that the crisis had already had, in 2008, significant implications on social rights, and notably that “increasing levels of unemployment is presenting a challenge to social security and social assistance systems, as the number of beneficiaries increase while tax and social security contribution revenues decline.” On that occasion, the Committee also underlined that, under the Charter, “the Parties have accepted to pursue by all appropriate means, the attainment of conditions in which *inter alia* the right to health, the right to social security, the right to social and medical assistance and the right to benefit from social welfare services may be effectively realized”. On this basis the Committee stated that “the economic crisis should not have as a consequence the reduction of the protection of the rights recognized by the Charter. Hence, the governments are bound to take all necessary steps to ensure that the rights of the Charter are effectively guaranteed at a period of time when beneficiaries need the protection most.”

Unfortunately, the Conclusions of 2013 and 2014 are testimony that worries and fears expressed in 2009 were well founded, and that the intended effect of the Committee’s statement has not been fully realised. On the contrary, the proportion of violations is higher now than in 2009; and violations are increasingly linked to inadequate levels of social security benefits and social assistance benefits, which disproportionately affect those who are most vulnerable – the poor, the elderly, the sick. But they are also linked, for example, to a decrease in lowest wages paid, or in the level of statutory minimum wages considered in comparison with the average wage. The conclusions of the last two years also reflect that health care systems are under growing pressure from austerity measures and there are signs, at least in some countries, that protection of health and safety at work is being downgraded, notably in small and medium-sized enterprises.

As an example of this worsening situation, let me refer to the right to social and medical assistance, which is provided for by art. 13 §1 of the Charter. Well, social and medical assistance for persons in need and with no resources is indeed a crucial safeguard against poverty, and a fundamental social right; which makes it all the more striking and a cause for concern that no fewer than 25 out of 31 countries examined in 2013 were found by us to be in breach of this provision. And the large majority of the violations concerns inadequate levels of social assistance. On this point, let me recall that the Committee holds that public assistance should not condemn beneficiaries to (income) poverty and that cash benefits, including any supplements, therefore should not fall below 50% of median equivalised income (which is the poverty threshold as applied by the Committee). And an increasing number of States Parties, both EU and non-EU, fail to meet this threshold.

Another example is the right to a fair remuneration, under article 4 §1 of the Charter which guarantees the right to a remuneration such as will give workers and their families a decent standard of living. It is the Committee’s case-law that, in order to ensure a decent standard of living, the lowest net wages paid must be above a minimum threshold, set at 50% of the net average wage. In 2014 the Committee found that, whilst few States in Europe meet this minimum threshold in some sectors (for example the private sector, or the industries covered by collective agreement), or for specific types of workers, the large majority of States, EU and non-EU States, completely fail to meet such threshold, either in the private or in the public sector.

So, in this case, our contribution, so to say, has consisted in highlighting and stating that States should not tolerate that, as a consequence of their legislation or of the labour market dynamics, workers are remunerated for their work by wages which, considering the cost of life, are so inadequate, such as they do not guarantee workers and their family their means of subsistence, sometimes determining that entire categories of workers fall below the poverty threshold.

But probably the best and most known examples of the contribution of the system of the European Social Charter to the protection of social rights in the context of economic crisis and austerity measures come not from our Conclusions of the last years, but from the Collective Complaints procedure.

In 2012 the European Committee of Social Rights has in fact decided seven collective complaints against Greece, concerning a series of legislative measures adopted by this State to fulfil the requirements decided by the so-called Troika as preconditions for the loan instalments, in the context of the financial support mechanism agreed upon by Greece with the Troika in 2010. These measures were supposed to enhance competitiveness of the Greek economy, combat unemployment by enhancing flexibility and encouraging employers to take a staff, and they were also aimed at cutting the financial cost for Greece of both public and private pensions schemes.

Two of such complaints (65/2011 and 66/2011) were lodged together by the General Federation of Employees of the National Electric Power Corporation and the Confederation of Greek Civil Servants, and concerned some measures reforming the labour market, labour contracts and wage conditions. In particular, the Greek legislation introduced “special apprenticeship contracts” for young persons aged between 15 and 18 years which, according to the Committee’s assessment, are excluded from the scope of labour legislation and have the practical effect of establishing a distinct category of workers who are not entitled, for example, to the annual three-weeks leave with pay, and who are excluded from the general range of protection offered by the social security system. In addition the Greek legislation adopted a reduction of 32% of the minimum wage, which has been applied to all employed persons under the age of 25, so that the minimum wage for younger workers is now substantially below the national minimum wage and has fallen below the poverty threshold. Other provisions of the same legislation made it possible, in the context of an open-ended labour contract, to dismiss a person without notice or compensation during an initial probation period of twelve months.

The Committee clearly stated that all these changes are not compatible with the obligations to protect social rights under the European Social Charter, and in particular with the provisions establishing the right of workers to annual holiday with pay, the right to a decent pay, the right to reasonable notice of termination of employment, and the obligation of the State not to deteriorate the social security schemes.

The other five complaints against Greece (76/2012, 77/2012, 78/2012, 79/2012, and 80/2012) were lodged by pensioner’s Unions, and concerned a series of legislative acts which suspended all pensions payments, reduced the amount of pensions, by 40, 50 or even 70 % in some cases, and reduced the social solidarity benefit of private sectors pensioners, by drastically lowering the income ceilings on which the benefit is paid.

It is worth stressing that, in the reasoning of the decisions of such complaints, the Committee started by recognizing that reductions in the benefits available in a national security system do not, *per se*, automatically, constitute a violation of the Charter's obligation to maintain the social security system on a satisfactory level, and that restrictions or limitations to rights in the area of social security can be compatible with the Charter in so far as they are necessary to ensure the maintenance of a given system of social security; and that the consolidation of public finances, in order to avoid mounting deficits and interest, constitutes indeed a means of safeguarding the social security system.

However, in the specific cases, the Committee considered, first, that the cumulative effect of the restrictions adopted by Greece was bound to bring about a significant degradation of the standard of living and the living conditions of many of pensioners concerned, and – second – that the Government did not conduct the minimum level of research and analysis neither into the effects of such far reaching measures nor into their full impact on vulnerable groups in society.

In this respect the Committee, recalling also the jurisprudence of the Court of human rights, held “that any decisions made in respect of pension entitlements must respect the need to reconcile the general interest with individual rights, including any legitimate expectations that individuals may have in respect of the stability of the rules applicable to social security benefits”.

The Committee concluded that “the restrictive measures at stake, which have the effect of depriving one segment of the population of a very substantial portion of their means of subsistence, have been introduced in a manner that does not respect the legitimate expectation of pensioners that adjustments to their social security entitlements will be implemented in a manner that takes due account of their vulnerability, settled financial expectations and ultimately their right to enjoy an effective access to social protection and social security”.

And the Committee has also added, significantly in my view, that “doing away with such guarantees would not only force employees to shoulder an excessively large share of the consequences of the crisis, but also accept pro-cyclical effects liable to make the crisis worse and to increase the burden on welfare systems, particularly social assistance”.

Outside the framework of the Greek situation and the economic crisis, another significant example of the primary importance given by the Committee to the protection of social rights, and in particular labour and trade unions rights, even when such rights have to be balanced against valuable economic freedoms, such as the freedom to provide services abroad, is the decision of Complaint 85/2012 against Sweden, adopted on July 2013.

This complaint concerned the adoption by Sweden of the so-called *Lex Laval*, as a consequence of a preliminary ruling of European Court of Justice. The new legislation, which took the place of the previous *Lex Britannia*, was in fact considered necessary in order for the Swedish legislation to comply with EU law on freedom to provide services, as interpreted by the Court of Justice in the *Laval* ruling, of December 2007.

To cut a long story short, the problem here was that this legislation, as regards foreign posted workers, had imposed substantial limitations on the ability of Swedish Trade Unions to make use of collective action in establishing collective agreements on matters which go beyond the minimum rate of pay or other minimum conditions. The same legislation also considers to be admissible to grant posted workers minimum standards, equivalent to those enjoyed by national workers without occupational experience at all (such as young people), even when the foreign posted workers have a long occupational experience and professional skills.

The Committee therefore could not but find that the new Swedish legislation is in contrast with the European Social Charter, and in particular with the provisions establishing the right to bargain collectively and the right to strike (art. 6§2 and 6§4), as well as the obligation of the State to guarantee foreign workers treatment not less favourable than that of national workers respect to the remuneration and enjoyment of the benefits of collective bargaining (art. 6§4).

But what deserves to be stressed is that the Committee, in deciding this case, took the opportunity to clarify something that is very important from the perspective of the protection of labour rights and the right to collective bargaining and collective action. Let me quote the relevant passage of the decision:

“The Committee considers that legal rules relating to the exercise of economic freedoms established by State Parties either directly through national law or indirectly through EU law should be interpreted in such a way as to not impose disproportionate restrictions upon the exercise of labour rights as set forth by, further to the Charter, national laws, EU law, and other international binding standards. In particular, national and EU rules regulating the enjoyment of such freedoms should be interpreted and applied in a manner that recognises the fundamental importance of the right of trade unions and their members to strive both for the protection and the improvement of the living and working conditions of workers, and also to seek equal treatment of workers regardless of nationality or any other ground.

Consequently, the facilitation of free cross-border movement of services and the promotion of the freedom of an employer or undertaking to provide services in the territory of other States – which constitute important and valuable economic freedoms within the framework of EU law – cannot be treated, from the point of view of the system of values, principles and fundamental rights embodied in the Charter, as having a greater a priori value than core labour rights, including the right to make use of collective action to demand further and better protection of the economic and social rights and interests of workers. In addition, any restrictions that are imposed on the enjoyment of this right should not prevent trade unions from engaging in collective action to improve the employment conditions, including wage levels, of workers irrespective of their nationality”.

Having recalled the recent developments of the jurisprudence of the European Committee of Social Rights concerning the protection of social rights at our times of economic crisis and austerity measures, I come now, very briefly, to the other issue raised by the background paper of this conference, that is whether the Committee and the Social Charter system are equipped, or not, to address issues that concern fundamentally the soundness of macro-economic policies put in place to deal with the crisis.

In this regard, let me say that if the perspective of this conference and the main interest for all the participants, for all of us here, is assessing the future of social rights in Europe, and contributing to ensure that all citizens can actually enjoy fundamental social rights in their everyday lives, then the very question is not so much, in my view, whether the Social Charter system is equipped or not to take into consideration the soundness of macro-economic policies put in place to way-out of the crisis and facilitate economic growth. The issue at stake is rather that certain macro-economic policies, certain austerity and labour market measures, which are considered necessary to address the crisis, can have a negative impact on social rights. Therefore, the very question is whether States, governments and European institutions competent in dealing with the crisis and in adopting macro-economic policies and other measures to cope with the crisis, are sufficiently equipped to address such issues in a way not to jeopardize or violate social rights.

And in the light of the Conclusions and Decisions of the European Committee of Social Rights of the last years, the answer to this question seems to be that European States and European institutions, like the EU institutions, are not always sufficiently equipped to do so.

In this respect, and considering the question from my specific point of view, that is the standpoint of the quasi-judicial monitoring body of the European Social Charter, some suggestions - or wishes - could be proposed to your attention, with a view to improving the equipment of States and European institutions, necessary for an adequate respect of social rights, also when they have to deal with policies and measures to address serious economic and financial crises. They are, moreover, suggestions that have already been presented and discussed in the context of the Turin High Level Conference of October 2014, and very well emphasized in the Report submitted by Mr Nicoletti, General Rapporteur of that Conference. Some of them have also been recalled this morning by the Secretary General of the Council of Europe, Mr Jagland, at the very opening of this Conference.

The first suggestion is the ratification of the Revised European Social Charter by all those States of the Council of Europe – some among them are also member States of the EU – which are still bound by the “old” Charter of 1961.

My second suggestion would be the ratification of the Protocol on Collective Complaints by those States parties to the Charter that have not yet ratified it; together with a strong enhancement of the collective complaints procedure, which – as you know - allows the direct involvement of social partners and civil society in monitoring activities regarding the application of the Charter.

And a third suggestion is reinforcing dialogue and exchanges with competent bodies of the European Union – in particular the Parliament, the Commission, the Economic and Social Committee, and the Court of Justice – , in view of a more careful consideration of the European Social Charter within the EU decision-making process and the judicial interpretation of EU law.

But apart from and beyond any specific possible suggestion or wish, and to conclude my intervention, I am firmly convinced that if we all – and I mean national authorities, legislators and judges, European political and judicial institutions and bodies, but

also Trade Unions, NGOs and other stakeholders from the organized civil society – if we all will take a bit more seriously the European Social Charter and its substantial contents, I really believe that the future of social rights in Europe, even if it will not magically become a brighter and rosy future, nevertheless can surely become less problematical and uncertain than their present is being, in these challenging times of economic crisis and way-out of the crisis.

Thank you.

Annexe 16.

Working lunch of the Heads of monitoring and advisory bodies of the Council of Europe

(Strasbourg, 23 November 2015)

Draft intervention by the President of the European Committee of Social Rights, Mr Giuseppe PALMISANO

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I would like to thank you for inviting me today and for providing the opportunity to have this important discussion.

You have asked what you can do to help our monitoring. I would say that you have already done a lot:

- ▶ when presenting your strategic vision and agenda for your second term, you included reinforcement of the European Social Charter as one of the seven imperatives for increased relevance and efficiency of the Council of Europe.
- ▶ shortly afterwards, you launched the Turin process at the High-Level Conference dedicated to re-situating the Charter at the centre of the European human rights architecture.
- ▶ the Charter system and the Turin process hold a key place in your annual reports on the state of democracy, human rights and the rule of law in Europe.
- ▶ as regards the 2016-2017 budget you followed through by proposing that more resources be allocated to the Charter and by proposing to mainstream the intergovernmental activities on social cohesion around the Charter and the Committee's case-law. I would like to invite all the monitoring and advisory bodies to pay more attention to the Charter in their respective activities with a view to increasing synergies. The Committee stands ready to cooperate with them in this respect.
- ▶ more particularly, you publicly and forcefully supported the decisions adopted by the Committee in relation to the politically very sensitive complaints, notably concerning migrants irregularly present in the Netherlands.

That said, and to reply more precisely to your question, I would like to highlight the following:

As regards improving the impact of the European Social Charter system within member States what would be very important is a more effective and visible communication strategy on the Charter system and, even more, the organization of trainings for national judges on the Social Charter and its interpretation and application by the European Committee of Social Rights. It would be much appreciated if you could help us to achieve this dual objectives.

I would also add that in order to improve our monitoring activity, which as you know covers many sensitive legal and political issues and include a number of different complex procedures, such as the reporting procedure, the collective complaints

procedure, and the procedure of non-accepted provisions, it would be really necessary to slightly increase both the number of members of the Committee, and the quantity and legal quality and specialization of the Secretariat staff.

As regards improving the synergy between EU law and the Charter, we now look forward to talks between you and the European Commission with a view to the signing of a joint declaration that would implement the 2007 Memorandum of Understanding specifically with respect to social rights. I hope that the second high-level event in the framework of the Turin process to be organised in Turin on 17-18 March 2016, and with your presence, could be the occasion for the signing of such a declaration. Let me add that the issue of improving the synergy with the EU is very urgent and crucial, in order to achieve a better consideration of the Charter and, more in general, the Council of Europe normative instruments of the Council of Europe by EU institutions in the process of adopting EU new legislative acts and policy measures, which should be consistent with the commitments that EU Member States do have as Parties of Council of Europe human rights treaties.

Now, as for the improvements made to presentation of our conclusions and decisions, let me assure you that the Committee is constantly improving its working methods so as to prioritize its conclusions and decisions making them more succinct and precise.

In particular, I would like to recall that we do not only submit a selection of our conclusions to the attention of the Governmental Committee, but in the last years we also started making a selection of conclusions to be specifically submitted to the Parliamentary Assembly, concerning the issues which are more relevant from the perspective of national parliaments and national legislative activities.

As for the improvements to our operational practices with a view to respond faster and more effectively to emergency situations, let me recall the recent insertion in our procedural rules of a provision concerning the recommendation of immediate measures, and the actual application of this rule, for example, in the already mentioned complaint on unaccompanied children and migrants irregularly present in the Netherlands. Let me also mention, as a different kind of example, the recent statement of interpretation on refugees which the Committee decided to make public immediately after its adoption in October 2015.

More generally, and to conclude, I would like to emphasise, once again, that the collective complaints procedure is where the Committee can respond quickly and in a focused manner to pressing social rights concerns. Therefore, one of the priorities of the Turin process is to increase acceptance of the complaints procedure, and it would be much appreciated if you could step up efforts to convey this message to Governments.

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.



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