Strasbourg,24 February 2009
T-SG(2009)4

EUROPEAN SOCIAL CHARTER

GOVERNMENTAL COMMITTEE

REPORT CONCERNING CONCLUSIONS 2007

European Social Charter (revised)

(Albania, Armenia, Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Ireland, Italy, Lithuania, Moldova, Norway, Romania, Slovenia and Sweden)

Detailed report of the Governmental Committee established by Article 27, paragraph 3, of the European Social Charter[1]

[1] The detailed report and the abridged report are available on www.coe.int/socialcharter.

CONTENTS

Page

I. Introduction

1. This report is submitted by the Governmental Committee of the European Social Charter made up of delegates of each of the forty states bound by the European Social Charter or the European Social Charter (revised)[1]. Representatives of international organisations of employers and workers (presently the European Trade Union Confederation (ETUC) and the International Organisation of Employers (IOE)) attend meetings of the Committee in a consultative capacity. BUSINESSEUROPE (former Union of Industrial and Employers' Confederations of Europe, UNICE) is also invited to attend but did not participate.

2. The supervision of the application of the European Social Charter is based on an analysis of the national reports submitted at regular intervals by the States Parties. According to Article 23 of the Charter, the Party "shall communicate copies of its reports […] to such of its national organisations as are members of the international organisations of employers and trade unions". Reports are published on www.coe.int/socialcharter.

3. The first responsibility for the analysis lies with the European Committee of Social Rights (Article 25 of the Charter), whose decisions are set out in a volume of "Conclusions". On the basis of these conclusions, the Governmental Committee (Article 27 of the Charter) draws up a report to the Committee of Ministers which may "make to each Contracting Party any necessary recommendations" (Article 29 of the Charter).

4. In accordance with Article 21 of the Charter, the national reports to be submitted in application of the European Social Charter (revised) concerned Albania, Armenia, Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Ireland, Italy, Lithuania, Moldova, Norway, Portugal, Romania, Slovenia and Sweden. Reports were due on 31 March 2006 at the latest; they were received between April 2006 and July 2007. No report was submitted by Portugal. The Governmental Committee repeats that it attaches a great importance to the respect of the deadline by the States Parties.

5. Conclusions 2007 of the European Committee of Social Rights were adopted in June 2007 (Albania, Armenia, Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Italy, Lithuania, Moldova, Norway, Slovenia and Sweden), and, due to late submission of reports, in October 2007 (Ireland, Romania); without the adoption of conclusions relating to Portugal.

6. The Governmental Committee held two meetings (13-16 May 2008, 6-9 October 2008), which were chaired by Mrs Alexandra PIMENTA (Portugal), First Vice-Chair, for the May meeting, and by Mr. Gyorgy KONCZEI (Hungary) for the October meeting.

7. Following a decision in October 1992 by the Ministers' Deputies, observers from member states of central and eastern Europe having signed the European Social Charter or the European Social Charter (revised) (Montenegro, the Russian Federation, Serbia) were also invited to attend the meetings of the Governmental Committee for the purpose of preparing their ratification of this instrument. Since a decision of the Ministers' Deputies

[1] List of the states parties on 7 October 2008 : Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and United Kingdom.

in December 1998, other signatory states were also invited to attend the meetings of the Committee (Liechtenstein, Monaco, San Marino and Switzerland).

8. The Governmental Committee was satisfied to note that since the last supervisory cycle, the following signatures and ratifications had taken place:

– on 29 May 2007, Latvia signed the European Social Charter (revised);

– on 27 June 2007, Turkey ratified the European Social Charter (revised);

– on 29 June 2007, Germany signed the European Social Charter (revised);

– on 7 October 2008, Bosnia and Herzegovina ratified the European Social Charter (revised).

9. The state of signatures and ratifications on 7 October 2008 appears in Appendix I to the present report.

II. Examination of national situations on the basis of Conclusions 2007 of the European Committee of Social Rights

10. The present abridged report, for the Committee of Ministers, only contains discussions concerning national situations for which the Governmental Committee proposed that the Committee of Ministers adopt a recommendation or renew a recommendation. The detailed report is available on www.coe.int/socialcharter.

11. Moreover, the Governmental Committee continues the improvement of its working methods. It decided to apply some of these measures, in particular to make a distinction between conclusions of non conformity for the first time – for which information on the measures which have been taken or have been planned by states to bring the situation into conformity with the Charter appears *in extenso* in the reports of its meetings – and renewed conclusions of non-conformity. It also underlined deferred conclusions for second lack of information, as well as deferred conclusions because of questions asked for the first time or additional time. Moreover, at its 117th meeting (16 May 2008), the Governmental Committee adopted new rules of procedure, including its working methods.

12. The Governmental Committee examined the situations not in conformity with the European Social Charter (revised) listed in Appendix II to the present report, and used the voting procedure for 7 of them. The detailed report which may be consulted at www.coe.int/socialcharter contains more extensive information regarding the cases of non-conformity.

13. The Governmental Committee took note of the cases where the conclusion is deferred for lack of information for the second time and because of questions asked for the first time or additional questions put by the European Committee of Social Rights (see Appendix III to the present report). It asked governments to reply to the questions in their next reports.

14. During its examination, the Governmental Committee took note of important positive developments in several States Parties. In particular, it asked governments to take into

consideration Recommendations adopted by the Committee of Ministers. It adopted the warnings set out in Appendix IV to this report.

15. The Governmental Committee urged governments to continue their efforts with a view to ensuring compliance with the European Social Charter (revised).

16. The Governmental Committee proposed to the Committee of Ministers to adopt the following Resolution, including the renewal for the second time of Recommendation No. RChS(95)6: Ireland, Article 4, paragraph 4:

Resolution on the implementation of the European Social Charter (revised) during the period 2001-2004 (Conclusions 2007, "non-hard core" provisions)

(Adopted by the Committee of Ministers on ....
at the .... meeting of the Ministers' Deputies)

The Committee of Ministers,[1]

Referring to the European Social Charter (revised), in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter (revised) submitted by the Governments of Albania, Armenia, Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Ireland, Italy, Lithuania, Moldova, Norway, Romania, Slovenia and Sweden (concerning period of reference 2001-2004)[2] ; with the exception of conclusions relating to Portugal, who did not submit a report;

Considering Conclusions 2007 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

[1] At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the European Social Charter or the European Social Charter (revised) are: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and United Kingdom.

[2] As far as Armenia and Belgium are concerned, it is the first report covering exceptionally all "non-hard core" provisions, the beginning of the reference period corresponded to the entry into force of the European Social Charter (revised) for each of these states. For Albania and Finland, it is the second report covering exceptionally all "non-hard core" provisions.

Renews the following Recommendation No. RChS(95)6[1] which has not yet been implemented: Ireland, Article 4, paragraph 4 (the periods of notice laid down in the 1973 Act in case of termination of employment were inadequate);

Recommends that Governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2007 of the European Committee of Social Rights and in the report of the Governmental Committee.

EXAMINATION ARTICLE BY ARTICLE[2]

Article 1§4 – Vocational guidance, training and rehabilitation

RSC[3] 1§4 BELGIUM

"The Committee concluded that the situation in Belgium is not in conformity with Article 1§4 of the Charter."

17. See article 10§3.

RSC 1§4 ESTONIA

"The Committee concluded that the situation in Estonia is not in conformity with Article 1§4 of the Revised Charter."

18. The representative of Estonia provided the following information in writing :

"Conclusions 2007" made with regard to Estonia have been discussed at the management meeting of the Ministry of Social Affairs and also in the session of the Social Affairs Committee of the Parliament in order to take the necessary measures.
We shall present the additional information with regard to different Articles as follows:
Article 1§4 – Vocational guidance, training and rehabilitation and Article 9 – Right to vocational guidance
According to the Basic Schools and Upper Secondary Schools Act, a young person is obliged to attend school until he/she acquires basic education or attains 17 years of age. For this reason, the primary purpose of the state is to prevent young people from dropping out of education system. That is why intensified attention has been paid to developing the possibilities of offering career-services at school trying to match the needs, possibilities and interests of the young person with the possible selection of specialty, vocational school etc.
When a young person (under the age of 17) has fallen out of school, we try to apply the suitable possibilities in order to direct the young person back to the education system (to obtain a concrete specialty) and not to direct him/her immediately into the labour market. The young person, who has fallen out of the education system, does not have to register himself/herself as unemployed in order to receive career services, but has also the possibility of receiving career services from the youth information and counselling centres.
Besides, even though the Labour Market Services and Benefits Act stipulates that career counselling services are provided to registered unemployed persons and jobseekers who have received notice of redundancy, in practice no person who asks for career counselling is left without assistance. However, provision of assistance to these people is not registered.
In order to promote the right to career counselling, the career services are going to be amplified within the framework of the new European Union programme period (2007-2013) in

[1] Recommendation No. RChS(95)6 of 22 June 1995 – Reference period: 1992, renewed for the first time by Resolution No. ResChS(2005)3 of 4 May 2005.
[2] State in English alphabetic order.
[3] Revised European Social Charter

tight cooperation between the Ministry of Education and Research and the Ministry of Social Affairs. The results of the programme will be the basis for legislative amendments.
[…]"

19. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 1§4 IRELAND

"The Committee concluded that the situation in Ireland is not in conformity with Article 1§4 of the Revised Charter."

20. See article 10§3.

RSC 1§4 ITALY

"The Committee concluded that the situation in Italy is not in conformity with Article 1§4 of the Charter."

21. See article 15§1.

RSC 1§4 MOLDOVA

"The Committee concluded that the situation in Moldova is not in conformity with Article 1§4 of the Revised Charter."

22. The representative of Moldova provided the following information in writing :

"Article 1§4 of the revised Charter states that with a view to ensuring the effective exercise of the right to work, the parties undertake to provide or promote appropriate vocational guidance, training and rehabilitation. The ministry of justice considers that Moldova has appropriate legislation on vocational guidance and training for the public. The Employment and Social Protection Act, No. 102-XV of 13 March 2003, is intended to ensure that the right to vocational guidance is fully effective. It provides the legal basis for employment policy in Moldova. Various steps have been taken to implement the measures provided for in the legislation:

- Guidelines on the vocational guidance, training and education of human resources, approved in parliamentary decision 253-XV of 19 June 2003.
- Government decision n°1080 of 5 September 2003 approving the regulation governing the vocational training of unemployed persons, which specifies how qualifying, regrading and upgrading courses and other forms of vocational training should be organised, run and financed;
- Regulation on vocational guidance and psychological support for persons with career problems, approved by government decision n° 450 of 29 April 2004.

The relevant legislation entitles everyone, including persons with disabilities, to receive the following services free of charge:
employment mediation;
vocational information;
vocational guidance and training in various labour market skills;
consultation on business creation and activities;
preferential loans;
encouraging labour mobility;
encouraging employers to recruit graduates of further and higher education institutions;
unemployment assistance and occupational integration and reintegration grants.
The Labour Code also has a separate chapter on vocational training. Under article 212, vocational training is taken to include any form of instruction leading to an employment qualification. Articles 213 and 214 specify the rights and obligations of employers and employees in the vocational training field. The conditions, arrangements and duration of vocational training and the level of funding devoted to it – at least 2% of firms' total wage costs – are laid down in employees' employment contracts or collective agreements. Where employees take part in training at their employer's request, the latter meets all the cost.

Costs relating to vocational qualification, apprenticeship and vocational training contracts are still governed by articles 215 and 216 of the Labour Code."

23. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 1§4 NORWAY

"The Committee concluded that the situation in Norway is not in conformity with Article 1§4 of the Revised Charter."

24. See Article 15§1.

RSC 1§4 ROMANIA

"The Committee concluded that the situation in Romania is not in conformity with Article 1§4 of the Revised Charter."

25. The representative of Romania provided the following information in writing :

"We want to clarify that Romania accepted Articles 9 and 15&1 of the Revised Charter. Romania did not ratify Article 10 para 3 (as it is stipulated in the ground of non-conformity). We send information regarding this Article due to the links with Articles 9 and 15§1.
In Romania, adult vocational training is regulated by Government Ordinance no. 129/2000 on adult vocational training (in accordance with Law no. 375/2002 for the approval of Government Ordinance no. 129/2000 on adult vocational training).
The adult vocational training is organized according to these legal documents, and subsequent implementation documents.
The National Agency for Employment (NAE) organizes vocational training programs for jobseekers, according to the legal documents mentioned above, through its own centers network (8 Regional Centers, and 21 own centers of vocational training, in 21 counties).
The Law no. 133/2000 for the approval of the Government Ordinance no. 102/1998 on Continuous Vocational Training through the educational system refers strictly to permanent education offered by the Ministry of Education and Research and it doesn't involve adult vocational qualification.
In order to benefit from the provisions of the Law no. 76/2002 on the unemployment insurance system and employment stimulation, with its subsequent changes and complements, jobseekers must be registered in the databases of the regional agencies for employment.
The following categories benefit from vocational training financed from the unemployment insurance budget:
a) unemployed receiving or not unemployment indemnity;
b) the persons who were not able to take up employment after graduating from an educational institution or after completing the compulsory military service;
c) persons who have obtained a refugee status or other form of international protection, according to the law;
d) persons who have not been able to take-up employment following repatriation or release from prison;
e) the persons who are in prison;
f) the persons who returned into work after the child care leave;
g) persons who returned into work after completing the military service;
h) persons who returned into work after recovery of work capacity after expiring the period of invalidity pension;
i) persons who carry out their activity in the rural area.
It is specified that these persons must be registered in the database of NAE, as jobseekers, according to the law.

Beside these categories of persons, 50% of the expenditures with vocational training services are also financed from the unemployment insurance budget for up to 20% from the employed staff of the companies.
These vocational training programs are organized to prevent unemployment, and the companies that benefit from this facility are selected according to the law."

26. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 1§4 SLOVENIA
"The Committee concluded that the situation in Slovenia is not in conformity with Article 1§4 of the Charter."

27. See article 10§3.

Article 2§1 – Reasonable daily and weekly working hours

RSC 2§1 ESTONIA
"The Committee concludes that the situation in Estonia is not in conformity with Article 2§1 of the Revised Charter on the following grounds:
– shifts of up to twenty-four hours may be authorised for employee categories such as security guards, health care professionals, welfare workers, fire and rescue workers etc.;
– the working hours of crew members on vessels engaged in short sea shipping may be authorised to work for up to 72 hours in any seven-day period."

28. The representative of Estonia provided the following information in writing :

"Conclusions 2007 made with regard to Estonia have been discussed at the management meeting of the Ministry of Social Affairs and also in the session of the Social Affairs Committee of the Parliament in order to take the necessary measures.
We shall present the additional information with regard to different Articles as follows:
Article 2§1 – Reasonable daily and weekly working hours
1) A working day of up to twenty-four hours is excessive and not in conformity with the Revised Charter
The government has prepared and published on 9 January 2008 the draft of the new Employment Contracts Act. Consultations with social partners about the draft are running on. All parties have been informed of the Conclusions made about Estonia.
Based on practice, we can say that the working day in institutions governed by the Ministry of Internal Affairs was reduced to 12 hours from 1 January 2008 on the basis of the regulations of internal work organisation, but employees claim that the previous 24-hour shifts with subsequent 3 days off were better suited with their working and private life. The new organisation of work has led to employees leaving (16% of employees left during I quarter 2008 according to the data from Estonian Rescue Board).
Finally, according to the Article I Paragraph 2 of the Revised European Social Charter, compliance with the undertakings deriving from the provisions of paragraph 1 Article 2 shall be regarded as effective if the provisions are applied to the great majority of the workers concerned. We would like to note that there are not many persons who work in shifts that are up to 24 hours long. It must also be considered that long shifts are permitted with the consent of the Labour Inspectorate and in the case when opportunities for rest have been created for such persons in their places of work.
2) The working hours of crew members on vessels engaged in short sea shipping
The issue has been discussed with representatives of the Seamen's Trade Unions, who believe that the regulation applied in Estonia is suitable and optimal. The issue will be discussed in greater detail in the course of preparations to join the ILO Maritime Labour

Convention (2006), which EU Member States have been recommended to join before the end of 2010.
According to the Article I Paragraph 2 of the Revised European Social Charter, compliance with the undertakings deriving from the provisions of paragraph 1 Article 2 shall be regarded as effective if the provisions are applied to the great majority of the workers concerned, which in this case is also pointed out by Mr. Evju in his dissenting opinion given about the conclusions made about Estonia. There are not many persons who work on vessels engaged in short sea shipping.
[…]."

29. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 2§1 FINLAND

"The Committee concludes that the situation in Finland is not in conformity with Article 2§1 of the Revised Charter as the Working Hours Act permits daily rest period to be reduced to seven and even five hours."

30. The representative of Finland informed the Committee that the situation regarding working hours in some sectors had not changed during the reference period. Thus in some circumstances it was still possible to reduce the rest period to nine, seven or even five hours. She added, however, that even though there were no statistics on how often this happens in practice, it only happened in a very limited number of cases.

31. The representative of Belgium and the ETUC representative underlined that Finland had been in breach of this provision of the Charter for almost ten years with no progress shown or intended. The ETUC representative found it unacceptable to allow a healthcare employee work for 19 hours.

32. The representative of France also confirmed that this was a classical case where the Government showed no intention to remedy the situation.

33. The Committee urged the Government to take measures with a view to bringing the situation into conformity with the Charter.

RSC 2§1 FRANCE

"The Committee concludes that the situation in France is not in conformity with Article 2§1 of the Revised Charter on the grounds that:
- the weekly working hours authorised for managers who fall under the annual working days system is excessive and the legal guarantees in the collective agreements system are not sufficient;
- on-call periods where no effective work is performed are assimilated to rest-periods."

"The Committee concludes that the situation in France is not in conformity with Article 2§1 of the Revised Charter on the grounds that:
– the weekly working hours authorised for managers who fall under the annual working days system is excessive and the legal guarantees in the collective agreements system are not sufficient;

<u>First ground of non conformity</u>

34. The representative of France confirmed that the situation regarding weekly working hours authorised for managers who fall under the annual working days system and the number of overtime hours performed by them which are not paid at a higher rate, had not changed following the Collective Complaint No 16/2003. She mentioned that concerning Article 4§2 the conclusion of the ESCR stating that the number of hours not paid at a higher rate were abnormally high was not well justified and in fact the annual working days

system provided for more flexibility for the benefit of both the enterprise and the managers concerned.

35. She recalled in this connection that the Committee of Minister did not address a recommendation to France in the context of the Collective Complaint No. 16/2003.

36. The Committee took note of the information provided by the representative of France and decided to urge the Government to take measures in order to bring the situation into conformity with the Charter as regards weekly working hours and overtime remuneration of managers who come under the annual working days system.

Second ground of non-conformity

37. The representative of France provided the following information in writing :.

"Applicable French legislation
Under Article L. 3121-1 of the Labour Code, actual working time is the time in which employees are at their employers' disposal and must comply with their orders, without being free to go about their personal business.
Article L. 3121-5 of the Labour Code defines on-call periods as periods in which employees, without being permanently and immediately at their employers' disposal, must remain at home or close by so that they can be called on to carry out work on the latter's behalf. The periods for which such call-outs last are deemed to be working time.
Under Article L. 3121-6, other than actual periods of call-out, on-call periods are taken into account in calculating daily and weekly rest periods..
Response to the conclusions of the ECSR
Act 2003-47 of 17 January 2003 introduced into the Labour Code the principle that on-call periods should be taken into account when calculating daily and weekly rest periods.
This is based on the fact that outside actual call-out periods, on-call periods cannot be deemed to constitute working time since those concerned are free to go about their personal business.
Moreover, in its judgment of 3 October 2000 in the case of Sindicato de Médicos de Asistencia Pública (Simap) v. Conselleria de Sanidad y Consumo de la Generalidad Valenciana, the Court of Justice of the European Communities ruled that doctors who are on call by being contactable at all times without having to be at the health establishment are undoubtedly at the disposal of their employer, in that it must be possible to contact them, but can nevertheless manage their time with fewer constraints and pursue their own interests. The Court therefore found that only time linked to the actual provision of services must be regarded as working time within the meaning of the directive.
Since they are not deemed to be actual working time, on-call periods cannot be included in the calculation of daily and weekly working hours.
Nevertheless, the Ministry of Labour has taken further steps to structure these arrangements:
- in circular DRT 2000-03 of 3 March 2000, the ministry states that treating on-call periods as rest periods should not lead to the same employees being systematically placed on call during compulsory rest periods and that if such practices are observed they should be reported to the central authorities.
- employees who are subject to on-call arrangements can continue to go about their personal business in their private sphere of activity while receiving compensation for the limited restrictions on their freedom of movement. Such compensation, provided for in Article L. 3121-7 of the Labour Code, takes the form of a financial payment or a rest period, determined by collective agreement or, in its absence, the employer.
- according to circular DRT 06 of 14 April 2003, when employees are called out during on-call periods and they have not yet benefited from the minimum rest periods specified in the Labour Code (11 consecutive hours in the day, 35 consecutive hours in the week), these

must be allocated in their entirety when the call-out ends. Since in most cases employees are called out before they have benefited from the minimum daily or weekly rest periods specified in the Code, the on-call arrangements are particularly favourable to those concerned.
For these reasons, treating on-call periods as rest-periods is not in breach of the right to reasonable working hours, as specified in Article 2§1 of the revised Social Charter.

38. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 2§1 IRELAND

"The Committee concludes that the situation in Ireland is not in conformity with Article 2§1 of the Revised Charter as working hours in the merchant shipping sector are allowed to reach 72 hours per week."

39. The representative of Ireland informed the Secretariat that he was not in a position to submit written information concerning all cases of non conformity for the first time relating to Conclusions 2007, because these cases are currently being examined by inter-departmental committees. Written information concerning all cases will be addressed in next reports on the relevant provisions.

RSC 2§1 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 2§1 of the Revised Charter as working hours in the fishing industry can reach 72 hours per week."

40. The representative of Italy provided the following information in writing :

"With regard to the non-compliance finding on article 2§1, following consultations with the relevant departments of the Ministry of Transport, the following points should be made.
Working hours in the fishing industry are governed by several Community directives.
In particular, Directive 2000/34/EC of 22 June 2000 amended the earlier Directive 93/104/EC to include the fishing industry within the scope of working time arrangements and the Economic and Social Committee has issued a favourable opinion on it. Directive 2000/34 introduces a new Article 17b that lays down rest periods for workers on sea-going fishing vessels and specifies that working time may not exceed 14 hours in a day and 72 hours in a week.
They were followed by Directive 2003/88/EC, which brings together the two previous directives. Article 21 concerns the working time of workers on sea-going fishing vessels and confirms that the hours may not exceed 14 in a day and 72 in a week.
The above directives were transposed into national law by legislative decree 66 of 8 April 2003. Article 18 of the decree lays down the maximum hours of work and minimum rest periods of workers in the fishing industry. The former may not exceed 14 hours in a day and 72 hours in a week, and the latter may not be less than 10 hours in a day and 77 hours in a week, which is consistent with the Community provisions.
These limits have been confirmed by the recent ILO Convention 188 on work in fishing, adopted in 2007.
In the light of the foregoing, it should be noted that national regulations are compatible with the maximum limit of 72 hours per week laid down in Community legislation and it is not considered appropriate at the moment to alter this limit."

41. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 2§1 LITHUANIA

"The Committee concludes that during the reference period the situation in Lithuania was not in conformity with Article 2§1 of the Revised Charter on the following grounds:

- For some categories of workers a working day of up to 24 hours may be allowed;
- In the absence of absolute maximum limits on daily and weekly working hours under flexible working time regimes the working week may be more than 60 hours."

42. The representative of Lithuania provided the following information in writing :

"First ground of non conformity
The list of specific categories of employees, when duration of working time of may be up to 24 hours per day is exceptional, strictly controlled and approved by the Government. (Resolution No 587 of the Government of the Republic of Lithuania of 14 May 2003 On Approval of the List of Works in which the Working Time of up to Twenty-four Hours per Day May Apply, Specific Features of Work and Rest by Spheres of Economic Activity, Conditions for Using Summary Recording of Working Time, and of the Procedure of Introduction of the Summary Recording of Working Time in Enterprises, Institutions and Organisations (Official Gazette, 2003, No 48-2120)). The attention should be paid that the work in that list is basically related with the being on watch, when the duties are not actively performed all the working time (only in the present of necessity). Such employees are secured with the additional rest time and other privileges in order to compensate the long duration of work (Paragraph 4 of Article 144 of the Labour Code).

Second ground of non conformity
Since 28 May 2005 the words "average duration" are deleated from the Paragraph 1 of Article 149 of the Labour Code, therefore the duration of working time is regulated strictly: "maximum working time in a week period must not exceed 48 hours and 12 hours per working day (shift)."

43. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 2§1 NORWAY
"The Committee concludes that the situation in Norway is not in conformity with Article 2§1 of the Charter as legislation provides that the total working hours in a twenty-four hour period may in certain circumstances be up to sixteen hours."

44. The representative of Norway informed the Committee that the working hours of up to 16 hours per day were still possible but more restrictions were introduced on the cases where this was permissible, such as the shorter averaging periods and a restriction imposing that the 13 hours long working days cannot be worked for several consecutive days.

45. ETUC representative noted that at least there was an attempt to restrict cases of violation but not enough as the situation remained in principle the same.

46. The Committee urged the Government to take measures in order to bring the situation into conformity with the Charter regarding the maximum permissible daily working hours.

Article 2§3 – Annual holiday with pay

RSC 2§3 ALBANIA
"The Committee concludes that the situation is not in conformity with Article 2§3 of the Revised Charter on the grounds that employees may relinquish annual leave in return for increased remuneration."

47. The representative of Albania provided the following information in writing :

"Annual holidays with pay.
1) Regarding the demand presented by the Committee not to replace the annual leave with financial compensation and not to give employees the opportunity to give up their annual leave, we emphasize that it is a decision which should be taken in political level. It is planned to intervene during 2010 to the Labour Code in order to have a specific regulation on this issues.
2) Regarding the demand presented by the Committee to ensure the provision with information on the nature of the postponement of annual leave, we clarify that such postponement has been made only in particular cases which are linked with the achievement of the priority objectives of work and always in agreement with the employee."

48. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 2§4 – Reduced working hours or additional holidays for workers in dangerous or unhealthy occupations

RSC 2§4 ALBANIA

"The Committee concludes that the situation in Albania is not in conformity with Article 2§4 on the grounds that not all workers employed in sectors deemed to pose risks to health and safety are guaranteed reduced working hours or additional holidays, or other sufficient compensation."

49. The representative of Albania provided the following information in writing :

"Regarding the observation by the Committee of experts, we express our agreement to it especially when such observation cites article 84 of the Labour Code as follows: "The Council of the Ministers establishes the reduced weekly duration for jobs which represent dangerousness or which are harmful for health". Such decision of the Council of the Ministers has not been drafted yet. On this purpose, it is planned to intervene during 2008 in two actual decisions of the Council of the Ministers in relation to the special measures on safety and health at work, as follows:
– Draft decision of the Council of the Ministers "On some changes in the decision of the Council of the Ministers No. 205, dated May 09th, 2002 "On the protection of minors at work" (also applying articles 99 and 103 of the Labour Code).
– Draft decision of the Council of the Ministers "On some changes in the decision of the Council of the Ministers No. 207, dated May 09th, 2002 "On the determination of hard or dangerous jobs" (also applying article 90, paragraph 3, and article 84 of the Labour Code)."

50. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 3§2 – Issue of safety and health regulations

RSC 3§2 CYPRUS

"The Committee concludes that the situation in Cyprus is not in conformity with Article 3§2 of the Revised Charter on the grounds that domestic workers are not covered by any occupational health or safety regulations".

51. The representative of Cyprus indicated that his authorities were taking steps to remedy the situation. An amendment to the Laws on Safety and Health at Work, extending their scope to include persons employed as domestic staff in private dwellings, had been prepared. The draft amendment had been circulated to the Labour Advisory Board, who

had approved it. The new piece of legislation would shortly be published and was expected to enter into force by the end of 2008.

52. The Committee took note of this positive development and decided to await the next assessment of the ECSR.

RSC 3§2 ESTONIA

"The Committee considers that the situation in Estonia is not in conformity with Article 3§2 of the Revised Charter because self-employed workers are not covered by occupational health and safety legislation".

53. The representative of Estonia indicated that an amendment to the Occupational Health and Safety Act had been finalised in December 2006. The amendment made reference to the ECSR conclusion, and would therefore bring the situation into conformity. The amendment entered into force on 1 March 2007.

54. The Committee took note of this positive development and decided to await the next assessment of the ECSR.

RSC 3§2 FRANCE

"The Committee concludes that the situation in France is not in conformity with Article 3§2 of the Revised Charter because certain self-employed workers are not sufficiently covered by the occupational health and safety regulations".

55. The representative of France mentioned that the problem raised by the ECSR was also one of concern for her authorities. Although general legislation on health and safety did not apply to self-employed workers, there were a number of sectoral regulations for this category of workers. She indicated that a conference on this topic had taken place on 4 October 2007, which would define follow-up actions. Also, the different provisions of the Labour Code applicable to self-employed workers had been assembled into a single section/provision, for the sake of clarity and simplification. She considered that both of these measures might help to improve the health and safety protection of self-employed workers.

56. The Committee took note of the Government's intention to promote a broader protection of self-employed workers and decided to await the next assessment of the ECSR.

RSC 3§2 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 3§2 of the Revised Charter because self-employed workers are not sufficiently covered by the occupational health and safety regulations".

57. The representative of Italy indicated that a legislative decree on health and safety, applicable to all workers, including self-employed ones, had been adopted on 8 April 2008. She stated that the new framework would remedy the problem raised by the ECSR.

58. The Committee asked the Italian Government to provide all the relevant information concerning this new legislation in its next report and decided to await the next assessment of the ECSR.

RSC 3§2 LITHUANIA

"The Committee considers that the situation in Lithuania is not in conformity with Article 3§2 of the Revised Charter because self-employed workers are not covered by occupational health and safety legislation".

59. The representative of Lithuania provided the following information in writing :

> "Law on Safety and Health at Work (Official Gazette, 2003, No 70-3170) was prepared implementing the European Council Directive 89/391/EEC of 12 June 1989 on the measures to encourage improvements in the safety and health at work with the last amendments made by Regulation (EC) No 1882/2003 of the European Parliament and of the Council.
> Although the notion of the self-employed workers is not used in the Labour Code and in the Law on Safety and Health at Work, self-employed workers as all employers and all employees (without any exception) should follow the requirement of the mentioned legal acts and all other acts, which establish the requirements for safety and health at work. (Article 228 of the Labour Code and Articles 3 and 33 of the Law on Safety and Health at Work).
> For instance, the notion "self-employed workers" is used in the Rules on Equipment of Workplaces in Construction Sites, approved by the Order No A1-22/ D1-34 of the Minister of Social Security and Labour and the Minister of Environment, 15 January 2008 (Official Gazette, 2008, No 10-362). Those rules were adopted implementing the European Council Directive 92/57/EEC of 24 June 1992 on implementation of minimum safety and health requirements at temporary or mobile construction sited. Self-employed workers at work have to obey the duties as employer and employee."

60. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 3§2 ROMANIA

"The Committee concludes that the situation in Romania is not in conformity with Article 3§2 of the Revised Charter because:

- preventive and protective measures do not exist for all the risks that must be covered under this provision;
- self-employed workers and domestic staff were not covered by the occupational health and safety regulations during the reference period".

<u>First ground of non conformity</u>

61. The representative of Romania provided the following information in writing :

> ''The 2004 report states that alignment of legislation was still pending in the area of minimum health and safety requirements on asbestos and physical agents (vibrations, noise and electromagnetic fields).
> As it was established on European Union level, the 2004/40/EC Directive transposition on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) shall be postponed within 4 years. This term allows the development of a research program and a database achievement, on the EU level, which shall allow to establish the new levels of workers exposure, the effects on short-term and long-term of the exposure of workers to the risks arising from physical agents, the risks bounds and the measures which shall be taken concerning of keeping the health and safety conditions.
> The European Commission asked the Members States for information concerning the concret situations from each state database. Romania declared its stand for participating to research programmes on this field and its wish in developing an national researching programme in partnership with the National Institute for Research and Development in Labour's Protection – Alexandru Darabont Bucharest and the Public Health Institute Bucharest, on the other hand. This partnership binds together safety and health at work issues, occupational disease's risks and profession's risks illness. It was a proposal to

collaborate with the National Institute of Statistics and with other interested parties - institutions and organisations. Because were not yet accomplished researching studies regarding of health and safety of workers at work thus exposed to the risks arising from electromagnetic fields radiations, a national research is necessary to develop, in this issue.
Romania declared its agreement concerning the postponement of the directive transposition and will take measures regarding the reviewing of the national law simultaneous with EU changing provisions.
Regarding the transposition of 2003/10/EC Directive, on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise), it is in progress the elaboration, in the context of the application of this directive, of a code of conduct providing the practical guidelines to help workers and employers in the music and entertainment sectors.
A working group was organised to this end. On the last meeting of this WG were taken notices on the lack of statistics results regarding of exposure levels of workers, the number of exposed workers and regarding the effects of exposure to the noise risks.
Thus, the proposal of a research programme was recommended on this line, to establish the applicability conditions of the mentioned code of conduct and of the categories of workers to whom the code may be addressed.
So, could be determinate, first of all, the essential measures to be taken to reduce the risks arising from exposure to noise and the effects of workers exposure to the noise risks. The research results shall form the database for the elaboration of this code of conduct
„Lessons learned" procedure can't be applied in this situation, because other member states doesn't yet elaborated a code of conduct to help the workers and the employers in the music and entertainment sectors , although the studies and research into question were founded.
We can't rely on other member states experience; therefore the start of one national research program is necessary.
In view of all these facts, it was proposed the prorogation of the elaboration of a code of conduct for the workers and the employers in the music and entertainment sectors.
Referring to the risks related to exposure to asbestos at work, Romania adopted the Government Decision no.1875/2005 on the protection of workers from the risks related to exposure to asbestos at work, published in Official Monitor, Part I nr.64 from January 24th, 2006. This regulation transposes in its integrity the Directive 83/477/EEC together with all its amendments, respectively Directives 91/382/EEC, 98/24/EC and 2003/18/EC."

62. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Second ground of non conformity

63. The representative of Romania indicated that self-employed workers fell under the scope of Article 6 of Law no.346/2002 on insurance of accidents and professional diseases. This law obliged self-employed workers to declare that they fulfilled the operating requirements provided in legislation on health and safety at work. The ETUC representative asked the next report to provide clarifications on the situation of domestic workers.

64. The Committee invited the Romanian Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 3§3 – Provision for the enforcement of safety and health regulations by measures of supervision

RSC 3§3 FRANCE

"The Committee concludes that the situation in France is not in conformity with Article 3§3 of the Charter on the grounds of the manifestly high number of occupational accidents".

65. The representative of France provided the following information in writing :

"The Committee has concluded that the situation in France is not in conformity with the Charter because of the high number of occupational accidents. This statement must be qualified because the level of protection of workers' health and safety in France cannot be reduced to one single indicator, namely that of the frequency of occupational accidents. Moreover, it is difficult to compare the numbers of occupational accidents in different European countries because of variations in definitions and means of measurement.

1. Reporting rates can vary significantly according to national institutional systems. Articles L 441-1 to L 441-6 of the French Social Security Code make it obligatory to declare all occupational accidents. Employers who fail to report accidents to the CPAM (sickness insurance fund) are committing a criminal offence. France is therefore one of the countries that has a very high level of reported accidents with time off work. According to statistical surveys of working conditions in 1998 by two official statistical and research institutions, DARES and INSEE, France has a very low rate of under-reporting. The reporting rates of some other countries may appear to be enviably lower but at the same time they are not complete.
The coverage of the statistics is not the same in every country since the treatment of public employees varies. The French statistics mainly concern the so-called general insurance scheme and do not cover the whole of the public service, where the incidence of occupational accidents is low. Because of these limitations the overall incidence of occupational accidents in France in relation to private and public law employees is over-estimated.
These factors therefore make it difficult to quantify the differences. France is aware of this bias and the next set of negotiations on working conditions in the public service will probably lead to the establishment of a statistical reporting system.
In the private sector - apart from agriculture, which is covered by the agricultural mutual insurance fund – our information on risk is based on statistics from the national employees' sickness insurance fund (CNAMTS).
In the public sector, it is based on statistics produced by the ministerial departments concerned: general directorate of the public service – DGAFP - (national public service), general directorate of local authorities – DGCL - (local and regional public service) and directorate of hospitals and health care – DHOS - (hospital-based public service).

2. The figure cited by the Committee must be seen in the context of trends in the incidence of occupational accidents in France, which has declined steadily since 1995. In 1995 the figure was 45 per 1000 employees, compared with 39 per 1000 in 2005, according to figures supplied by the CNAMTS, a fall of 13.3% in 10 years. This positive trend applies to all sectors of activity covered by the general scheme.

3. The Ministry of Labour draws up rules on safety in the workplace, monitors their application and actively promotes measures to improve working conditions and occupational health and safety. It therefore pays close attention to general trends in occupational accidents and diseases.
Nevertheless, there are still gaps and the data are not all homogeneous.
The point has been made strongly by the Court of Auditors in its 2005 annual report and in the 2006 report of the joint IGAS-INSEE (general inspectorate of social affairs and economic statistics institute) project, as part of the 2005-2009 occupational health plan, to audit the

statistical information system of the main occupational accidents and diseases insurance schemes .
In accordance with Article L 227-1 of the Social Security Code, negotiations will start in 2008 on a new management and objectives agreement for the occupational accidents and diseases branch for the next four years.
This will involve the creation of a more exhaustive database on accidents in this branch. This should make it possible to produce data on occupational accidents and diseases broken down by seriousness, age, sex, nationality and the victim's occupation.
A conference on working conditions on 4 October 2007 also identified potential improvements in the French statistical system and proposals will be drawn up, in consultation with the social partners."

66. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 3§3 IRELAND
"The Committee concludes that the situation in Ireland is not in conformity with Article 3§3 of the Revised Charter because of repeated lack of reliable statistics concerning work accidents and full information on the activities of the Labour Inspectorate".

67. The representative of Ireland informed the Secretariat that he was not in a position to submit written information concerning all cases of non conformity for the first time relating to Conclusions 2007, because these cases are currently being examined by inter-departmental committees. Written information concerning all cases will be addressed in next reports on the relevant provisions.

RSC 3§3 SLOVENIA
"The Committee concludes that the situation in Slovenia is not in conformity with Article 3§3 of the Revised Charter because of the high number and frequency of accidents at work".

68. The representative of Slovenia indicated that her authorities agreed with the ECSR finding that the number of work accidents was too high, especially in the construction sector. The Labour Inspectorate was taking some measures, for example increasing the number of its inspectors. She also indicated that her authorities would provide more detailed statistical information in the next report.

69. The Committee took note of this information and decided to await the next assessment of the ECSR.

Article 4§1 – Adequate remuneration

RSC 4§1 IRELAND
"The Committee concludes that the situation in Ireland is not in conformity with Article 4§1 of the Revised Charter as it has not been established that a decent standard of living is guaranteed for a single worker earning the minimum wage."

70. The representative of Ireland informed the Secretariat that he was not in a position to submit written information concerning all cases of non conformity for the first time relating to Conclusions 2007, because these cases are currently being examined by inter-departmental committees. Written information concerning all cases will be addressed in next reports on the relevant provisions.

RSC 4§1 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 4§1 of the Revised Charter as it has not been established that a decent standard of living is guaranteed for a single worker earning the minimum wage."

71. The representative of Italy provided the following information in writing :

"The last Italian government report on Article 4§1 included a table showing remuneration for 2005, both gross and net of taxes and contributions. The net incomes shown in the table are in fact derived from a study conducted by the ministry of labour on the basis of ISTAT (Italian national statistics office) data on contractual wages and salaries for 2005 only.
We again wish to stress that the data on minimum wages are essentially indicative since, as already noted, in Italy the wages and salaries of the various occupational groups are determined by collective bargaining, to which national legislation refers.
The representative of Italy also supplyed tables showing gross contractual wages and salaries, with the average and minimum remuneration, calculated by ISTAT on the basis of a single employee, for the period 2001-2004."

72. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 4§1 NORWAY

"The Committee concludes that the situation in Norway is not in conformity with Article 4§1 of the Charter as it has not been established a decent standard of living is guaranteed for a single person earning the minimum wage."

73. The representative of Norway provided the following information in writing :

"Norway has been criticised also in earlier cycles due to lack of information on minimum wages, both for young and adult workers.
As the ECSR knows, there is no legislation on minimum wages in Norway. Wages are decided either in individual agreements or in collective agreements. In order to meet the ECSR's request for information, we have tried to provide information on wages. On our request the National Statistics Bureau, Statistics Norway, has provided statistics on average wages for employees in 2006. These statistics show that the average net wage for all employees amounts to NOK 262 450 (EUR 32 800). Average net wage for the 10 pst. employees with lowest wages (1st decile), amounts to NOK 166 450 (EUR 20 800), or 63 per cent of the average net wage for all employees. The average gross wage for employees in 1st decile amounted to 59 per cent of the average wage for all employees.
We will provide more details on the statistics in our next report.
Yearly average wage[1)] for all employees and for employees in the 1st decile. Single persons. NOK 2006.

	All employees (A)	Employees in decile 1 (B)	B/A (%)
	2006	2006	2006
Average gross wage	366 700	217 200	59
Average gross wage[2)]	262 450	166 450	63
Net/gross (%)	72	77	

[1)] Include paid, agreed salary, irregular increase of salary, bonus and commission.
[2)] Gross wage after deduction of income tax and social security contribution.
Source: Statistics Norway

Apprentices are included in Norwegian wage statistics. There is a special wage system for apprentices, because a part of their time at work is allocated to learning. According to Statistics Norway apprentices are overrepresented in deciles including employees with low wages. Interpreting the wage figures this should be taken into account."

74. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 4§1 ROMANIA
"The Committee concludes that the situation in Romania is not in conformity with Article 4§1 of the Revised Charter as it has not been established that a decent standard of living is guaranteed for a single worker earning the minimum wage."

75. The representative of Romania informed that Committee about evolution of gross minimum and average wages which demonstrated that the minimum wage was still below the threshold adopted by the ECSR (28,8% in 2006). She said that the information on the net amounts would be presented in the next report.

76. The Committee urged the Government to take measures to guarantee the right to a decent standard of living for all workers.

RSC 4§1 SWEDEN
"The Committee concludes that the situation in Sweden is not in conformity with Article 4§1 of the Charter as there is no evidence that a decent standard of living is guaranteed for a single worker earning minimum wage."

77. The representative of Sweden provided the following information in writing :

> "Hereby the Swedish Government wishes to submit the following further information due to the conclusions of the Committee of 2007 that the situation in Sweden is not in conformity with Article 4§1 of the revised European Social Charter on the grounds that there is no evidence that the right to a remuneration that ensures a decent standard of living is guaranteed for a single worker earning minimum wage.
> The Committee recalls that to be considered fair within the meaning of Article 4§1 a wage must not fall too short of the national average wage. In the Swedish case the lowest minimum wage indicated in the latest report (SEK 8, 837 net) corresponds to only 53% of the net average wage in 2005 (SEK 16, 582). The Swedish Government is therefore asked to provide information on any benefits or tax alleviation measures that the minimum wage earners receive that would be sufficient to give these workers a decent standard of living. Such information has unfortunately not been provided.
> There is no state regulation concerning minimum wages. The social partners are fully responsible for the wage setting, and wages are usually determined through collective agreements. The above example of minimum wage (SEK 8, 837 net) is from the agreement of the Financial Sector Union of Sweden. This minimum wage is for employees below 21 years old and is very seldom used in practise. It is very unusual that people below the age of 21 are employed within the financial sector. The average wage for people working in banks in Sweden in 2007, between the age of 20 and 24, is about SEK 13, 000 net."

78. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 4§2 – Increased rate of remuneration for overtime work

RSC 4§2 BELGIUM
"Committee concludes that the situation in Belgium is not in conformity with Article 4§2 of the Charter on the ground that the right to increased compensatory time-off for the overtime is not guaranteed in the public sector."

79. The representative of Belgium informed the Committee that no steps had been taken to remedy the violation and that there were no new development since the last

assessment of the ECSR. However, she added that this situation only concerned federal civil servants.

80. The Committee urged the Government to take adequate steps to guarantee to all workers the right to an increased compensatory time-off for overtime hours.

RSC 4§2 FINLAND

The Committee concludes that the situation in Finland is not in conformity with Article 4§2 of the Revised Charter on the following grounds:

– there is no evidence that all collective agreements derogating from the provisions of the Working Hours Act afford a level of protection in compliance with Article 4§2;
– family day carers are not covered by provisions on overtime remuneration.

81. The representative of Finland informed the Committee about the amendments to the appendix to the general collective agreement for municipal sector which are valid for 2007-2010. The parties to this agreement are the Commission for Local Authority Employers and municipal trade unions representing family day care workers. The appendix regulates working hours and overtime remuneration. According to the representative of Finland, the Government is aware that the terms and conditions of family day care workers need attention. The issue has been taken up in a working group which is currently looking more extensively into the problem.

82. The Committee took note of positive developments and decided to await the next assessment by the ECSR.

RSC 4§2 FRANCE

"Since the situation that was found not to be in conformity with Article 4§2 of the Revised Charter in both Complaints mentioned above has not been remedied, the Committee concludes that the situation in France is not in conformity with Article 4§2 of the Revised Charter on the ground that the number of hours of work performed by managers who come under the annual working days system and which, under the flexible working time system, are not paid at a higher rate is abnormally high."

83. The Committee referred to its decisions under Article 2§1.

Article 4§4 – Reasonable notice of termination of employment

RSC 4§4 ALBANIA

"The Committee concludes that the situation in Albania is not in conformity with Article 4§4 of the Revised Charter because:

– five days' notice is insufficient for workers with fewer than three months' service, even in the probationary period;
– one month is not a sufficient period of notice for workers with five or more years' service;
– part-time workers are not entitled to any notice before termination of employment."

96. The representative of Albania provided the following information in writing :

> "1) Regarding the clarifications required on the meaning of articles 141 and 143/4 of the Labour Code, as well as on their implementation in practice, we clarify that Article 141 stipulates the cases when the contract of work for an indefinite period of time is considered as terminated: it refers to the case when the timeframe for the notification has expired upon termination by one of the parties. Article 143 speaks about the timeframes of notification for the termination of the contract after the period of probation. This article, after establishing the timeframes of notification in accordance with the seniority at work and after giving to the parties the right change such timeframes upon written agreement (it is implicitly understood that the timeframes of notification cannot be lower than what the law foresees), determines

that, if one of the parties terminates the work contract ignoring the respect of the required notification timeframes, the termination of the work contract shall be considered same as the termination of contract with immediate effect and shall be subject to the same provision.

2) The Committee considers as unreasonable the one month period of time for the notification of the interruption of employment regarding employees who are in that service since five or more years. (See Conclusions of 2003 on Bulgaria). The one month minimum is not in compliance with article 4, paragraph 4, in the case of employees who are in that service since five or more years.
Article 143/1 of the Labour Code has provided for the establishment of the timeframes of notification that parties are obliged to respect when terminating the contract of work, as follows:
- One month – during the first year of work;
- Two months for a period from two to five years of work;
- Three months for more than five years of work.

3) The Committee considers the provisions of Article 151/1 as insufficiently clear. Thus, explanations are required on the implementation of this article in practice, especially when the employees are entitled to a period of notification when their contract is not going to be renewed.
The notification timeframes in this occasion are the same as those established for the indefinite contract, so the same established by article 143/1.

4) The Committee states that the definitions done in Article 151/2 are in compliance with Article 4/4 of the European Social Charter. Anyhow, clarifications are required on how such provision is applied in practice, especially when employers can terminate such contracts before the completion of the three years or five years periods, as well as on what notifications.
If the work contract has been concluded for more than three years and up to five years, the employer may also terminate it after three years by respecting a two months timeframe of notification which is extendable until the end of the second month. While, when the contract is valid for more than five years, the employer may also terminate it after five years and in this case, this provision refers to a three months timeframe of notification which is extendable until the end of the third month. In our daily practice, work contracts are usually signed for periods of time from one to two years.
If the contract terminates before the completion of the three years, the provisions to be applied shall be those which govern the case of indefinite contracts.

5) The Committee notes that Article 4/4 of the European Social Charter is applied to all employees, while in the report presented by Albania, the timeframes of notification for part time employees have not been included. The Committee notes that part time employees are also entitled to a reasonable period of notification before their employment is terminated.
Article 14 of the labour Code provides for the cases of part time employees. Paragraph 2 of this article establishes that part time employees enjoy the same rights as the full time employees, in due proportion. This implies also the right for the respect of notification timeframes in the case their employment is terminated."

97. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 4§4 ARMENIA

"The Committee concludes that the situation in Armenia is not in conformity with Article 4§4 of the Revised Charter on the grounds that:
– the period of notice and the amount of severance pay are not calculated in light of the employees' length of service;
– one month is not a reasonable period of notice for employees with more than one year's service;

– employees who fail to fulfil or inadequately fulfil their obligations, employees in whom the employer has lost confidence or who are performing military service may be dismissed without notice."

98. The representative of Armenia provided the following information in writing :

"Following the Committee's non-compliance finding concerning Armenia's 2006 report on Article 4§4 of the revised Charter, we wish to inform you that the Armenian government has accepted a draft decision that is intended to extend and amend the country's Labour Code. This would include the following amendments:
Article 32 of the Labour Code:
In accordance with Article 115§2 of part 1:
Employers will be required to notify employees in writing at least a month before the termination of their contracts. The notice periods will be extended according to employees' length of service: by 5 days for 5 years of work, 10 days for 5 to 10 years of work and 15 days for 15 years of work.
Article 33 of the Labour Code:
In accordance with Article 129 of the Code:
Other than in the case of employees' non- or incomplete performance of their duties or where their employers have lost confidence in them, in the event of termination of contract employees shall receive severance pay according to their length of service:
1. for up to one year's service, 30 days' average wage
2. for 1 to 5 years' service, 40 days' average wage
3. for 5 to 10 years' service, 50 days' average wage
4. for over 10 years' service, 60 days' average wage.
The amendment also permits collective agreements to provide for severance pay equivalent to longer periods."

99. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 4§4 BULGARIA

"The Committee concludes that the situation in Bulgaria is not in conformity with Article 4§4 of the Revised Charter because:
– …;
– fifteen days' notice is not a reasonable period of notice for employees with six or more months' service under contract for an additional work."

RSC 4§4 BULGARIA

"The Committee concludes that the situation in Bulgaria is not in conformity with Article 4§4 of the Revised Charter because:
– thirty days is not a reasonable period of notice for employees with five or more years' service;
– …"

First ground of non conformity

90. The representative of Bulgaria said that under current legislation, notice periods did not depend on length of service. Following the Committee's non-compliance conclusions it was planned to amend the Labour Code. The new proposals would permit the negotiation, in collective agreements, of different notice periods according to length of service, within a range of one to three months.

91. The representative of the Czech Republic said that the situation had not changed and that even if the planned changes went through, the minimum notice period would still be the same. It was impossible to know what the outcome would be since this would

depend on negotiations between the social partners. She proposed the adoption of a warning.

92. The representative of Iceland thought that the Government of Bulgaria should be sent a strong message to remedy the situation, in consultation with the social partners, and that the next report should contain detailed information.

93. The ETUC representative said that they were only talking about draft legislation, which might not be passed, and that even if it were it was not clear that this would bring the situation into line with the Charter.

94. The Committee voted on a warning to Bulgaria, which was rejected (6 votes for, 14 against and 13 abstentions).

95. The Committee urged the Government of Bulgaria to bring the situation into conformity with Article 4§4 of the revised Charter.

Second ground of non conformity

96. The representative of Bulgaria provided the following information in writing :

> "The fifteen days' notice only concerns additional employment contracts with the same or another employer. Such contracts presuppose the existence of a principal employment relationship, that is they can be concluded once employees have concluded a principal employment contract. Their principal contracts are the main sources of these employees' income and determine the place where they are employed. Additional employment contracts are collateral contracts. Parliament has considered it appropriate, in the case of principal employment relationships that are protected by all the provisions of the Labour Code, to offer employees an opportunity to work longer hours, subject to the constraints of daily and weekly rest periods, while offering employers a more flexible means of employing staff for activities that do not require full-time work. This approach reflects the principle of flexibility and security of employment and we do not consider any change to be necessary."

97. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 4§4 FRANCE

"The Committee concludes that the situation in France is not in conformity with Article 4§4 of the Revised Charter on the grounds that the minimum statutory notice period is inadequate for employees with service periods of 15 years or more with the same employer."

98. The representative of France said that the law on notice periods had not changed. However, as well as the notice periods specified in law, account had to be taken of the redundancy allowances that were paid in all cases of premature termination of contract, whether or not those concerned then found other work, and which had to be added to the notice periods. These allowances had been increased under the Modernisation of the Labour Market Act, no. 2008-596 of 25 June 2008, and its decree 2008-715 of 10 July 2008. The allowance could not now be less than one-fifth of the gross monthly salary for each year of service (it had formerly been one-tenth) for employees with at least one year's service (previously two). The allowance was also increased after ten years' service, to become a minimum of one-fifth of the monthly salary plus two-fifteenths (previously one-fifteenth) per year of service beyond ten years' service. Finally, she said that branch

collective agreements and individual enterprise agreements could include more favourable terms than the legal notice periods and allowances, which were minima.

99. In answer to questions from the ETUC representative, the representatives of the United Kingdom, the Czech Republic and Ireland, the Secretariat said that the ECSR had always accepted that notice periods could be replaced by sums of money, so long as these were equal to what employees would have earned during the corresponding notice periods.

100. The representative of Iceland thought that they should await the ECSR's assessment of these changes to the law before the Governmental Committee adopted a stance.

101. The representative of the Czech Republic asked for the ECSR to clarify its case-law on the allowances that employees might receive in addition to their notice periods.

102. The Committee noted these positive developments, invited the Government of France to supply all relevant information in the next report and decided to await the ECSR's next assessment.

RSC 4§4 IRELAND

"The Committee therefore concludes that the situation in Ireland is not in conformity with Article 4§4 of the Revised Charter on the grounds that the periods of notice laid down in the 1973 Act are inadequate."

103. The representative of Ireland said that the situation was unchanged. His authorities had started to examine each case of non-compliance, but they had not yet reached Article 4§4.

104. The representatives of Iceland, of the Czech Republic, France and the ETUC representative said that the situation had not changed and proposed the renewal of the Committee of Ministers recommendation.

105. The Committee agreed to propose that the Committee of Ministers renew its Recommendation RChS(95)6 to Ireland by 21 votes for, 2 against and 9 abstentions.

RSC 4§4 ITALY

"The Committee notes that some of the periods of notice referred to above are exaggeratedly short and have already been found not to be in conformity with the Charter. It concludes that the situation in Italy is not in conformity with Article 4§4 of the Revised Charter because:

– one week's notice is not a reasonable period of notice for any worker whether or not he or she has completed six months' service;
– nine days' notice is not a reasonable period of notice for workers with five to ten years' service;
– twelve days' notice is not a reasonable period of notice for workers with more than fourteen years' service;
– two weeks' notice is not a reasonable period of notice for workers with more than six months' service;
– one month's notice is not a reasonable period of notice for workers with five or more years' service."

106. The representative of Italy said that the situation was unchanged and that there were no measures planned to remedy the violation. She said that the notice periods were set by collective agreements and not by law. They varied from industry to industry and employees' length of service and/or grade, to reflect the real needs and characteristics of each industry. The first six months of employment were generally a probationary period in which the employment relationship was deemed not to be finally established, so no notice was necessary to terminate it.

107. The representative of France said that the situation had been incompatible with the Charter since Conclusions I (1970).

108. The representatives of Iceland, of the Czech Republic and France said that the Government of Italy should put pressure on the social partners to bring the situation into line with the revised Charter. Legislation should be introduced to establish a minimum standard.

109. The representative of Italy said that the law could not change redundancy notice periods and there was nothing the Government could do because the social partners had to be in agreement on the subject.

110. The representative of the Czech Republic proposed that the Committee vote on the renewal of Recommendation RChS(95)7 of 22 June 1995. She was supported by the representatives of France and Iceland.

111. However the Committee decided not to propose the renewal of the Committee of Ministers Recommendation to Italy, with 17 votes for, 3 against and 13 abstentions, which was insufficient since there was not a simple majority of the State Parties, as required by Article 14 A c) of the Committee's rules of procedure.

112. The representative of Belgium asked whether Resolution ResChS(2004)3 of 17 March 2004, which renewed Recommendation RChS(95)7 of 22 June 1995 relating to Italy, remained valid. The Secretariat confirmed this.

113. The representative of Iceland thought they should make it clear that the Resolution was still valid and ask for more information on the Italian situation.

114. The representative of the Netherlands, supported by the representative of Ireland, thought that issuing a warning could be interpreted as a weakening of the Committee's position.

115. These views were supported by the representatives of Lithuania and France.

116. The representative of Italy agreed to list the main collective agreements in the next report to clarify the situation.

117. The Committee invited the Government of Italy to bring the situation into conformity with Article 4§4 of the Revised Charter. It recalled that Resolution ResChS(2004)3 of 17 March 2004, which renewed Recommendation RChS(95)7 of 22 June 1995, remained valid. It asked the Government of Italy to enact legislation setting minimum notice periods and to supply the promised information on collective agreements in the next report.

RSC 4§4 ROMANIA

"The Committee concludes that the situation in Romania is not in conformity with Article 4§4 of the Revised Charter on the ground that fifteen days' notice is insufficient in the case of employees with more than six months' service."

118. The representative of Romania said that Article 73 of the Labour Code specified a minimum of 15 days' notice in the event of termination of employment, whatever the length of service. This minimum could be increased in the contract or by collective agreement.

For example, the national collective agreements reached between 2001 and 2004 all provided for notice of 20 working days.

119. The ETUC representative noted that the legislation was unchanged. With the support of the representative of the Czech Republic, he proposed that the Committee adopt a warning.

120. The Secretariat said that even 20 working days', or 4 weeks', notice was inadequate for many employees.

121. The representative of Romania said that the next report would detail the support measures for redundant employees in addition to periods of notice.

122. The Committee voted on issuing a warning to Romania, which was approved (17 votes for, 6 against and 9 abstentions).

RSC 4§4 SWEDEN

"The Committee therefore concludes that the situation in Sweden is not in conformity with Article 4§4 of the Revised Charter on the grounds that, in the painting industry, employees under 30 with five or more years' service are only granted one month's notice of termination of employment."

123. The representative of Sweden said that the painting industry had adopted a new collective agreement but this did not alter the notice period for employees aged under 30. The problem only concerned a very limited number of employees but nevertheless a working group of the social partners would consider the matter.

124. The Committee took note of the developments in Sweden. It encouraged the Government of Sweden to support the renegotiation of the painting industry collective agreement. It invited it to provide all relevant information in the next report, and in particular to clarify the situation regarding collective agreements for each sector of the industry. It decided to await the ECSR's next assessment.

Article 4§5 – Limitation of deduction from wages

RSC 4§5 IRELAND

« The Committee concludes that the situation in Ireland is not in conformity with Article 4§5 of the revised Charter on the grounds that:

- workers may waive their right to limited deductions from wages;
- deductions from wages may deprive workers of their very means of subsistence."

263. The representative of Ireland informed the Secretariat that he was not in a position to submit written information concerning all cases of non conformity for the first time relating to Conclusions 2007, because these cases are currently being examined by inter-departmental committees. Written information concerning all cases will be addressed in next reports on the relevant provisions.

RSC 4§5 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 4§5 of the Revised Charter on the grounds that it has not been fully established that, in practice, the wages paid after any deductions are still sufficient for workers to provide for themselves and their dependants."

134. The representative of Italy said that under the relevant rules (Article 545 of the Code of the Civil Procedure taken with Article 2 of Act N° 180/50), deductions from wages may be made to pay a maintenance debts due by law equal to up a third (the maximum limit) of the distrained employee's net wage, submitted to a court's authorization. Whereas for other types of debt prescribed in conformity with the abovementioned rules (f.i.: taxes, or debts to pay to the employer or to the Government or to the Local Authorities, etc.), the maximum limit shall not exceed a fifth of the net wage. Any other limit is set according to specific rules, but always in order to respect the right to the sufficient minimum wage, by Article 36, par.1, of the Constitution. According to this fundamental rule, the worker has the right to the sufficient minimum wage, in order to assure him/her a respectable and free life; in practice in order to meet material needs of the worker and his/her dependants. The basic principle also in case of deductions from employee's wage must apply, through abovementioned rules. The representative of Italy undertook to describe the relevant case-law in the next report.

135. The representative of the ETUC asked if the limit of one third of the net wage applied to employees earning the minimum wage, or if there was a lower limit, below which it was not permitted to go. In reply, the representative of Italy reminded that one third of the net wage is the maximum limit, but the judge can apply a lower one. She said that wages are set by collective agreements and if the wage after deductions is not sufficient to meet basic material needs of the worker and his/her dependants, according to the principles abovementioned under the article 36 of the Constitution, workers could apply to the courts for protection.

136. The representatives of Romania and Slovenia said that the situation was unchanged. The representative of Iceland, supported by the representatives of the Czech Republic and the ETUC, proposed that a warning should be adopted.

137. The Committee voted on issuing a warning to Italy, which was approved (17 votes for, 3 against and 11 abstentions). It urged the Government of Italy to amend its legislation and bring it into line with the requirements of the Revised Charter.

RSC 4§5 LITHUANIA

"The Committee concludes that the situation in Lithuania is not in conformity with Article 4§5 of the Revised Charter on the grounds that un certain cases after deductions the remaining salary is not enough to ensure the subsistence of the worker."

130. The representative of Lithuania provided the following information in writing :

> "Under Article 225 of the Labour Code, in the case of the minimum monthly wage the deduction may_not exceed 20% (general rule). Under the same Article only in the very exceptional cases (for compensation for damage caused by mutilation or other health impairment, also for the deprivation of life of the bread winner and damage caused by a criminal act and in the case of deductions under several writs of execution) the deduction may not exceed 50% of minimum monthly wage.
> It is possible to deduce up to 70% of salary when the wage exceeds the minimum monthly, but still the rules of limits in the case of minimum monthly wage are applicable, therefore at least 80 % or in above mentioned cases -50% of minimum wage should be left for the person.
> In any case of deduction, the person is secured much more income (more than three times) than the Minimum Standard of Living (MSL), established by Government.

Considering the percentage of the deduction, Court also should take into account the interests of the offender and especially his/her family in order to secure his/her interest to work."

131. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 4§5 MOLDOVA

"The Committee concludes that the situation in Moldova is not in conformity with Article 4§5 of the Revised Charter on the grounds that workers earning the minimum wage may be subject to wage deductions which may not afford them and their dependents the minimum subsistence level."

132. The representative of Moldova provided the following information in writing :

"In the previous report, the ministry of the economy and trade stated that, under article 131 (1) of the Labour Code, the minimum wage is the minimum pay received in national currency. The amount is laid down by the state for simple, unqualified work and employers are not allowed to pay below this level, whether on a monthly or hourly basis.
The minimum wage does not include supplements, incentive payments or expenses.
The minimum wage is binding for all individuals and legal persons irrespective of type of ownership and legal form of organisation and the amount cannot be reduced in either collective or individual employment contracts.
Act 1432-XIV of 28 December 2000 on the method for setting and reviewing the minimum wage specifies that it is determined by the state, in consultation with the social partners, with reference to real economic conditions and the average national wage, together with the forecast level of inflation.
Over the period 2002-2007, the minimum wage was revised three times and on 1 April 2007 was set at lei 400 per month.
In addition, in accordance with the Salaries and Wages Act, no. 847-XV of 14 February 2002, the principal and obligatory element of the standard wage system is the standard monthly wage for employees with a category I qualification, which serves as a basis for collective and individual employment contracts, other wages and salaries under the standard tariff system and other salaries.
Following negotiations, the standard monthly wage for category I employees of firms with financial autonomy was:
lei 340 from 01.07.2003
lei 440 from 01.02.2004
lei 550 from 01.08.2005
lei 700 from 01.07.2006
From 1 June 2007, in accordance with the nationally negotiated collective agreement the standard monthly wage for category I employees is lei 900 per month.
The standard monthly wages for employees are calculated on the basis of the standard wage for category I employees agreed in the undertaking and approved standard coefficients that vary according to category of employee.
The wages or salaries of other categories of staff are determined according to individuals' qualifications, level of vocational training and skills and the amount of responsibility carried by the job in question and its complexity.
Consideration will be given in 2008 to establishing a new national minimum wage to take account of economic growth and the growth of income in the budget. This in turn will lead to a revision of the standard wage system since the minimum wage is the equivalent of the standard wage for category I employees and forms the basis for calculating other standard wages and those of employees in the budgetary sector.
Deductions from wages are covered by articles 147-150 of the Labour Code.
Under article 148, deductions are only permissible if they are authorised by law.
Apart from those specified in article 148, other deductions from wages concern income tax, and individual social security and health insurance contributions.

In recent years, Moldova's financial and tax policy has been to gradually reduce the burden of taxes for individuals.
As a result, personal income tax has been reduced as follows:
In 2007:
- 7% of taxable income up to lei 16 200;
- 10% of taxable income up to lei 16 200 to 21 000;
- 20% of taxable income in excess of lei 21 000.
In 2008:
- 7% of taxable income up to lei 25 200;
- 18% of taxable income in excess of lei 25 200.
The annual personal allowance for individuals in 2007 was lei 5400 (lei 450 per month) and in 2008 lei 6 300 (lei 525 per month).
Year on year total taxes are declining.
One result is that the national minimum wage is not taxable.
The other deductions from wages and salaries are individual social insurance and compulsory medial insurance contributions, which in 2008 are 5% and 3% respectively.
Section 31 of the Wages Act prohibits deductions from employees' earnings on behalf of employers or other individuals or legal persons and other deductions that are not authorised in legislation.
The limitation on deductions from wages in accordance with article 149 of the Code applies to all employees, including manual workers.
Under this article, for any salary payment total deductions may not exceed 20% or, in the case statutory deductions, 50% of the employee's wage or salary.
Such deductions require the authority of one of a number of enforceable documents such as court writs, decisions on administrative offences, official contracts concerning maintenance payments and other enforceable documents specified in the Moldovan Execution Code.
Where deductions from wages are authorised by such enforceable documents the amount may not exceed 50% of wages.
These limits do not apply to deductions from wages for the enforcement of maintenance payments for under age children. In such cases the amount may not exceed 70% of wages.
The average wage of employees in Moldova in 2007 was lei 2065, 21.7% higher than in 2006."

133. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 4§5 NORWAY

"The Committee concludes that the situation in Norway is not in conformity with Article 4§5 of the Revised Charter because workers may waive their right to limited deductions from wages."

134. The representative of Norway informed about some progress in the Norwegian situation. According to the Working Environment Act (Section 14-15 Subsection 2), deductions from wages and holiday allowances are prohibited, except in special mentioned cases, inter alia when stipulated in advance by a written agreement between the employer and the employee. In some of the situations where deductions from wages are allowed, they shall be limited to that part of the claim which exceeds the amount reasonably needed by the employee to support himself and his household (Section 14-15 Subsection 3). This limitation does not apply to deductions from wages stipulated in a written agreement between employer and the employee, nor in certain other cases (Section 14-15 Subsection 1, litra a, b and d).

135. In October 2008, the Norwegian Ministry of Labour and Social Inclusion send out a draft document which included a proposal to extend the limitation mentioned above to all situations where deductions are permitted. The employer will then in all cases be clearly

obliged not to make deductions which make it difficult for the employee to sustain himself and his family. The Government will probably submit a bill to the Parliament in the spring 2009. In our opinion, this will bring Norwegian legislation in conformity with the European Social Charter.

136. The Committee noted the positive developments in Norway and decided to await the ECSR's next assessment under Article 4§5 of the revised Charter.

RSC 4§5 ROMANIA

"The Committee concludes that the situation in Romania is not in conformity with Article 4§5 of the Revised Charter on the ground that deductions from wages may deprive the worker of his very means of subsistence."

137. The representative of Romania provided the following information in writing :

> "With the issuance of Law no. 571/2003 regarding the Fiscal Code, with the subsequent amendments and completions, the personal deductions have been regulated by art. 45, 46, 56 from this law.
> According to art. 164 paragraph (1) from the Law no. 53/2003 – The Labour Code, no penalty can be drawn from the salary, except for the cases and conditions stipulated by law.
> According to paragraph (2) of the same article, the penalties that represent damages cause to the employer can only be made if the employee's debt is due, lichidă and has been noticed by a definite and irrevokable court order.
> At paragraph (3) of the same article it is stipulated that, in case of pluralism of creditors of he employee, the following order will be respected:
> a) the maintenace obligations, according to the Family Code;
> b) the contributions and taxees owed to the state;
> c) the damages cause to the public propriety by illicit acts;
> d) covering other debts.
> According to paragraph (4) of the same article, the cumulated salary penalties can not surpass, in every month, half of the net salary.
> From the above-mentioned, the conclusion is drawn that the legal texts mentioned establish the maximum limit of the salary penalties and refer to the penalty of cumulated debts. "

138. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 8§2 – Illegality of dismissal during maternity leave

RSC 8§2 FINLAND

"The Committee concludes that the situation in Finland is not in conformity with Article 8§2 of the Revised Charter on the grounds that legislation makes no provision for the reinstatement of women unlawfully dismissed on grounds of pregnancy or whilst on maternity leave."

139. The representative of Finland informed that no legislative change occurred and none was planned. Illegal dismissal (whatever the ground, including pregnancy) may only result in liability to financially compensate the victim. She also recalled that when the new Contracts of Employment Act was being prepared (this is in force since June 2001), the reinstatement provision which previously existed was repealed based on consensus among all parties concerned. She further pointed out that deeming a notice of dismissal unlawful does not mean that an obligation to maintain an employment relationship through coercive means is required by Article 8§2 of the Charter. Finally, she highlighted that

cases of dismissal on grounds of pregnancy are very rare in Finland (probably no case in 3 years).

140. The representatives of Lithuania and Estonia highlighted that in practice the Finnish system is very protective as regards maternity and more information on the situation in practice should be requested.

141. The representatives of Cyprus, of the Czech Republic, Romania, Slovakia and the ETUC representative pointed out that notwithstanding the flexibility of the Finnish labour market there might be cases where women do wish to take up their job again even if illegally dismissed on grounds of pregnancy or whilst on maternity leave. The Government of Finland should therefore strongly be encouraged to reopen discussions on reinstatement and bring the situation in conformity with the Charter.

142. The Committee urged the Government of Finland to take all the necessary measures to bring the situation into conformity with Article 8§2 of the Revised Charter.

Article 8§3 – Nursing Breaks

RSC 8§3 BELGIUM

"The Committee concludes that the situation is not in conformity with Article 8§3 of the Revised Charter on the grounds that breaks granted to women for the purposes of breastfeeding are only granted until the child reaches the age of 7 months.

143. The representative of Belgium provided the following information in writing :

> "The Ministry of Employment has asked the national labour council to examine this issue and make recommendations. The examination is currently under way.
> The next Belgian report will set out the position adopted by the national labour council."

144. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 8§3 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 8§3 of the Revised Charter on the grounds that domestic workers and home workers are not entitled to paid breaks for the purposes of breastfeeding their infants."

145. The representative of Italy referred to Legislative Decree 151/2001 and clarified that in practice the employer and the domestic worker may agree that daily paid rest breaks be taken for the purpose of breastfeeding. She also noted that such breaks may be taken by the father to take care of the child.

146. Responding to questions by the representatives of France, Bulgaria, Romania and the ETUC representative, the representative of Italy acknowledged that notwithstanding what might annually be provided for within the framework of the financial law, no legislative change was envisaged. The matter might however be dealt with in a collective agreement.

147. The ETUC representative and the Chair highlighted that it was the second consecutive occasion that no legislative change was either reported or envisaged. They suggested that a strong message be sent to the Government of Italy

148. The Committee urged the Government of Italy to take all the necessary measures to bring the situation into conformity with Article 8§3 of the Revised Charter.

Article 9 – Right to vocational guidance

RSC 9 BELGIUM

"The Committee concludes that the situation in Belgium is not in conformity with Article 9 of the Revised Charter on the grounds that the right to vocational guidance is sufficiently guaranteed."

149. The representative of Belgium provided the following information in writing :

"The information below will be included in the next report.
I. Preliminary comments
Firstly, the following points should be made:
In Belgium, some school and vocational guidance is provided at Community level (the Flemish Community, the Walloon-Brussels French Community and the German-speaking Community). School and vocational guidance for individuals (i.e. pupils, parents and teachers) must be connected with their education, which is managed at French-speaking level by the French Community. This is the level at which we find the psycho-medico-social centres (CPMSs), which are charged with offering pupils psychological, medical and social support throughout their schooling as well as providing remedial services, conducting appraisals, helping to draw up pupils' personal plans and career plans, and supplying information on careers and studies, partner institutions, training and education bodies and opportunities to study abroad.
In the Regions, different bodies manage the vocational guidance services connected with the labour market (designed for workers and jobseekers). The FOREM is in charge of the Walloon Region, Actiris is responsible for the Brussels-Capital Region and the VDAB covers the Flemish Region.

II. Information on the freedom of students to decide whether or not to follow the advice given during guidance sessions and, if they have this choice, what the consequences of not following such advice are
(a) In the French Community
In the French Community, one of the tasks of CPMSs is to give careers advice to students. Drawing on useful data concerning students, including the results of tridisciplinary examinations (looking at psychological, medical and social aspects) and, where appropriate, face-to-face interviews with those concerned, the CPMS team offers its advice at a staff meeting bringing together all the teachers who taught the student concerned over the past year. These meetings are held at the end of each cycle of studies. On the basis of the CPMS's opinion, the teachers decide what subjects the students may wish to study in the future. Restrictions may be imposed on this occasion, taking account for example of weaknesses in certain subjects or physical incompatibilities.
Students who disagree with the conclusions of staff meetings may appeal, and appeals of this sort are processed not by the school they attend but by a specific body set up by the authorities for the purpose, namely the appeal board, which reviews cases totally impartially.
(b) In the German-speaking Community
Students are entirely free to decide whether or not to follow the advice given by the Community's vocational guidance services.

III. Information concerning the number of beneficiaries of guidance services, particularly young people
(a) In the French Community
CPMS services are free of charge and accessible to all, including adults.

Other information sources such as the studies and careers information service (SIEP) are available for consultation by students. There are also a number of independent experts who offer guidance counselling.
This makes it impossible to determine exactly how many people benefit from guidance services.
For information only, here are a few data relating more specifically to the CPMSs.
Pupils at nursery, primary and secondary schools run or subsidised by the French Community are distributed between the CPMSs in the different networks.
Over the 2007/2008 academic year, the 165 CPMSs provided guidance for some 875 000 pupils. They have been allocated the equivalent of 1 250 full-time posts to carry out their tasks.

(b) In the German-speaking Community

In the German-speaking Community, three types of state-run and/or subsidised institutions are responsible for vocational guidance:
- Psycho-Medico-Social Centres (CPMSs);
- the public employment office (Arbeitsamt);
- the Institute for Initial and Further Training for the Middle Classes and SMEs (IAWM).

1. CPMSs

The German-speaking Community allocated a budget of € 1 137 126 to the CPMSs in 2007. They employ 34 people. No statistics are available on the services they provide.

2. Public employment office

The guidance service run by the public employment office (Arbeitsamt) had a separate budget of € 315 000 in 2006, and employed 4 people and provided the following services in 2007:

Individual consultations	439 people (2)
58 lectures (1)	Attended by 757 people
Consultations with disabled people	61 people (2)

(1) Lectures are organised in partnership with schools and trade union and employers' organisations
(2) This is the number of people concerned; they may have attended more than one session.

3. IAWM

Placements on apprenticeships (during which participants must also attend school part time) are organised by apprenticeship secretaries, who work with the IAWMs. Apprenticeship secretaries also have a vocational guidance role (this concerns three people).
The IAWM also holds "Schnupperwochen", which are two weeks during which young people can attend guidance-oriented work experience schemes with companies; there is also a special girl's day on which the focus is on career guidance for girls. In 2008 the total budget for the two events was € 12 000. In 2007, some 200 companies and 700 pupils took part in the "Schnupperwochen".

IV. Information on the budget allocated for vocational guidance services

(a) In the French Community

In 2007, the budget for CPMSs and all the related networks in the French Community was € 73 250 000.

(b) In the German-speaking Community

See section III (b) above.

V. Information on how the public is kept informed

In the French Community

Information on studies or careers may be provided in the following ways:
- by CPMS staff, either at general sessions attended by a whole class or during face-to-face interviews with particular pupils;
- on company presentation days (when professionals are invited to schools to describe their work to the pupils or pupils are invited for a guided visit designed both to introduce them to the workplace and to arouse their interest in the conditions in which workers are required to carry out their tasks);

- through career profile cards made available to pupils;
- through the documentation available at CPMSs;
- through the studies and careers fairs held for several years now in the decentralised sites of Liège, Brussels, la Louvière, Namur and Tournai.

VI. Information on equal access to vocational guidance services and vocational training in the German-speaking Community

The following legislation guarantees equal access to vocational guidance services and vocational training:

Freedom of access to CPMSs is guaranteed by the Royal Decree of 13 August 1962 on Psycho-Medico-Social Centres.

The role of IAWMs and apprenticeship secretaries in particular is defined by the Decree on initial and further training in the middle classes and in SMEs of 16 December 1991.

Vocational guidance in the employment office is governed by the Decree establishing the employment office in the German-speaking Community of 17 January 2000.

Equal access to vocational guidance is guaranteed by the Decree on Equal Treatment in the Labour Market of 17 May 2004.

VII. Information on the regional employment office of the Brussels-Capital Region

On 22 June 2007 the name of the regional employment office in the Brussels-Capital Region was changed from the ORBEM to ACTIRIS.

The services of the Brussels regional employment office (ACTIRIS) which provide vocational guidance are as follows:

- the centralised and decentralised branches of the Active Jobseeking Guidance Service (GRAE);
- the Welfare Counselling Service, for people needing to be directed towards sheltered employment.

Various partners working with ACTIRIS have signed a service agreement that includes vocational guidance, including:

- Active Jobseeking (RAE) partners;
- local employment task-forces;
- the CPASs' social and vocational integration units.

ACTIRIS staff are made up of psychologists, psychological assistants working for the GRAE and social workers working for the Welfare Counselling Service.

Six people are employed with the Counselling Service on 4.5 full-time posts while 35 people are employed full time by the GRAE.

Vocational guidance is carried out within the framework of the vocational assessment and guidance module and the career planning group, both of which are co-financed by the European Social Fund for jobseekers meeting the relevant criteria.

In 2007, 1513 jobseekers were assisted by the GRAE and 603 were assisted by the Welfare Counselling Service.

Vocational guidance provided by ACTIRIS is organised as follows:

The vocational assessment and guidance module (for individuals)

After the module, jobseekers should have pinpointed the problems they encounter when jobseeking and established an action plan to tackle them and achieve their career objectives. They should have identified any personal resources that they may be able to bring into play and analysed to what extent they can be transposed to different tasks.

Target group:

- jobseekers without clear and realistic career objectives;
- possibly also jobseekers with career objectives but several years without any activity that will be of value to the employer (e.g. long periods of unemployment or non-vocational experience unconnected to the objective set).

Requirements:

Participants must:

- want to find a career or change their career path;
- be fluent in French and Dutch;

- be able to think about and question themselves.
Length of the module:
One to three two-hour sessions.

The career planning group (formula D: 10 days over four weeks)
Currently available only in French
By the end of this course, jobseekers should have established their own career or training plan.
Target group:
- jobseekers without clear and realistic career objectives;
- possibly also jobseekers with career objectives but several years without any activity that will be of value to the employer (e.g. long periods of unemployment or non-vocational experience unconnected to the objective set).
Requirements:
Participants must:
- want to find a career or change their career path;
- want to learn how to work as part of a team, paying attention to and showing respect for others;
- write and speak French fluently;
- be capable of thinking about themselves;
- be able to put ideas into practice, carrying out research and collecting useful information for the preparation of their plan.
Length:
Ten days spread over four weeks.

Vocational guidance sessions organised by the Dutch-speaking team
Guidance interview:
Following this activity, an assessment is made (through both group and individual testing and a face-to-face interview) of the career plans drawn up by jobseekers enrolled with partners for preliminary training (or guidance) or full training.
Following the assessment, the RAE guidance counsellors submit an opinion to the partners as to the appropriateness of the training plans drawn up by the jobseekers enrolled with them.
Target group:
Jobseekers enrolled with partners for preliminary or full training.
Requirements:
Participants must:
- have a strong desire to attend the preliminary or full training provided by partners;
- want to learn how to work as part of a team, paying attention to and showing respect for others.
Follow-up interview:
During this interview, jobseekers have an opportunity to describe their experience of the training course followed. RAE guidance counsellors can steer jobseekers towards different careers where necessary and give them information about the various services provided by ACTIRIS.
Target group:
Jobseekers on training courses.
Requirements:
Participants must:
- be attending the preliminary or full training provided by partners.

VIII. Up-to-date information on the vocational guidance services provided in the labour market in the Walloon Region
At Walloon Region level it is mainly the Regional Office for Employment and Vocational Training (FOREM) which manages the vocational guidance services connected with the labour market (designed for workers and jobseekers).

However, the European definition of the concept of vocational guidance is much broader in scope than what the FOREM's vocational guidance counsellors alone can offer and so reference should also be made to the four levels of vocational guidance in the Walloon Region. Vocational guidance is available in the following forms:

Counselling sessions at the Employment and Training Forums (Carrefours Emploi Formation)

In 1998 ten Training Forums were set up in the Walloon Region's main cities to provide the public with all the information available on the vocational training provided in the region.

The aim of the Employment and Training Forums, which were established in 2004 by combining the existing Training Forums with the Employment Resource Centres run by the FOREM's advice department, is to provide the public with information, advice and guidance in 5 areas – jobseeking, setting up one's own business, training opportunities, vocational guidance and international mobility.

These public information and documentation centres also offer access to technological tools such as computers, multimedia PCs, telephones, faxes and photocopiers.

They are open to all members of the public and entirely free of charge. Confidentiality, objectivity and due regard for people's freedom of choice are the watchwords in these new meeting places.

The 12 Employment and Training Forums in the Walloon Region are public, multi-operator centres set up at the instigation of the regional authorities in co-operation with public training and social and occupational integration bodies including the FOREM, the Walloon Agency for the Integration of Disabled Persons (AWIPH), the Joint Federation of Firms Promoting Training through Work and Social and Occupational Integration Bodies, the four informal education networks, the Walloon Institute of Sandwich Course Training for Self-Employed Workers and Small and Medium-Sized Enterprises (IFAPME) and the Regional Employment Task-Forces (MIREs). The FOREM co-ordinates and controls the whole system with the support of the other partners.

The advantage of this system is that it provides comprehensive information about the services available and focuses on offering impartial advice and guidance, steering users towards the service that meets their needs most.

Looking more specifically at the guidance aspect, there are counsellors at these centres who can provide information or arrange a first counselling session for people having difficulty choosing a career. Once their requests have been assessed, individuals may be advised to contact other service providers, working either within the FOREM (such as vocational guidance counsellors) or outside (such as contracted project managers).

Although the Employment and Training Forums were set up primarily to help jobseekers, they are open to everyone without discrimination and will advise all people with employment or training-related queries, whether jobseekers, students or workers considering a change in career.

In 2007, they received 440 000 visits in total and held 46 000 full counselling meetings.

Counselling sessions run by the FOREM's general counsellors

Vocational guidance is also dispensed through meetings with the FOREM's vocational support counsellors. These sessions are generally organised on a face-to-face basis, although some use is also made of work placements.

The role of vocational support counsellors is to help individuals:

- discover their own potential;
- be more aware of the resources available to them;
- establish a consistent and efficient plan of action to pursue their career plan;
- devise a proper market strategy.

The goal is to enhance and extend people's employability. To achieve this, vocational support counsellors focus on the following actions:

Providing support

Identifying and satisfying individuals' needs, guiding them throughout their efforts to make themselves more employable.

Capitalising on achievements

Taking full advantage, at each stage in the process, of the progress achieved at the previous stage and acknowledged as such by the individuals themselves.
Creating added value
Diagnosing individuals' problems and advising and guiding them on their path towards increased employability, while taking account of the following factors:
- their social and occupational situation;
- their skills;
- their motivations and career projects;
- their command of jobseeking tools and techniques.
Group sessions and modules run by the FOREM's specialised counsellors

In addition to the general counsellors described above, there are other more specialised counsellors who can provide individuals with advice on vocational matters, called vocational guidance counsellors.
To ensure that their vocational guidance needs are satisfied, counsellors encourage individuals to devise, clarify and validate personal career plans and help them to take decisions on general vocational matters, career changes and career management. For this purpose, they provide support in areas such as:
- pinpointing needs by means of personal interviews with individuals before they begin their module;
- conducting personal, social and occupational appraisals;
- conducting skills assessments (to identify and validate skills);
- devising and validating plans;
- investigating the market, looking at both jobs and training;
- putting plans into practice.
This support will be provided in the course of an individual or group module and by means of an action plan drawn up at a face-to-face post-module interview. Work experience placements are also used.
Outside partners
Support for jobseekers is generally provided through the services for individuals run by the FOREM and its partners. The FOREM also works in close co-operation with outside partners to promote new activities to satisfy user needs.
Therefore, certain specific guidance activities are organised with outside operators including ones stemming from the FOREM's calls for projects.
Description of the system
The call for projects is a measure adopted by the FOREM's Advice Department, which was implemented for the first time in 2004. It is based on a Co-operation Agreement of 1 July 2004 between the federal government, the Regions and the Communities (called the "Support Plan for Unemployed People").
Calls for projects are issued annually to training and integration bodies working in the Walloon Region with a view to increasing, diversifying and decentralising the training and integration activities on offer in the region while taking account of the general social and economic environment and each geographical area's particular interests and needs. The fields covered are vocational guidance, jobseeking and basic qualifications.
The target group was enlarged in three successive stages in accordance with the Co-operation Agreement referred to above. Until June 2005, it was restricted to jobseekers under thirty and, until June 2006, to jobseekers under forty.
For the third stage, the target group of the call for projects was primarily registered unemployed persons on benefit between 18 and 50 years of age. Following the 2006-2007 cycle, a total of 312 projects were accepted, involving 7 292 trainees and 133 outside partners, a quarter from the commercial sector and three quarters from the non-commercial sector.

Description of the "vocational guidance" component of calls for projects
Projects commissioned after calls for projects fall within the scope of various measures, one of which is specifically devoted to vocational guidance.

Guidance activities organised as a result of calls for projects pursue the following three aims:
- to extend the range of choices available and devise vocational training and/or integration projects in the light of labour market and training developments on the ground;
- to provide the tools and the support necessary to draw up, validate and implement a sound and realistic career plan taking account of labour market structures and the individual's personal and vocational attributes;
- to enable jobseekers to increase the potential for their action plan to be implemented.
By the end of the activity, jobseekers should be in a position to make career choices, based in particular on information on the situation in the labour market and training sector and how this affects them personally. They should have established their career plans or career goals and be able to implement the action plan needed to carry them out.

Figures concerning the "vocational guidance" component

	Appeal 1		Appeal 2		Appeal 3		Appeal 4
	Planned	Achieved	Planned	Achieved	Planned	Achieved	Planned
Number of projects	64	60	90	79	69	69	78
Number of sessions	192	140	247	201	162	161	156
Number of beneficiaries	2.330	1.240	2.572	1.822	1.728	1.571	1.569
Total hours			211.908	193.731	181.626	180.636	199.408

IX. Information on equal access to vocational training in the labour market for nationals of other parties to the Charter in the Walloon Region

a) Access to information via the "Job Horizons" ("Horizons Emploi") labour market information website

In the course of 2008, as part of the general overhaul of its Internet site (http://www.leforem.be), the FOREM will set up a new on-line labour market information forum, centring on vocational information (descriptions and analysis of every possible occupation and links to the studies and training which lead to them) and sectoral information (characteristics of different sectors of activity, particularly with regard to employment). It will be called the Job Horizons site and should become a day-to-day working tool for guidance counsellors working within FOREM but also outside (for example CPMS staff).
As part of the FOREM Internet site, it will also be accessible to everyone.
It will not be limited to a particular sector of activity or type of occupation and so it will propose a complete list of possible jobs.
Furthermore at a second stage of development, the benefits and ease of access to the site for the general public will be enhanced in ways that are directly relevant to the subject of this report:
- there will be visual illustrations and descriptions of occupations, careers and sectors of activity, which will make the information more suitable and attractive to the ultimate target groups (young people, jobseekers, etc.);
- it will be possible to access vocational information by specifying personal areas of interest, and this may be a key initial step in the vocational guidance process.

b) Access to Employment and Training Forums

The 12 Employment and Training Forums in the Walloon Region are public, multi-operator centres set up at the instigation of the regional authorities in co-operation with public training and social and occupational integration bodies. The FOREM co-ordinates and controls the whole system with the support of the other partners.
Although the Employment and Training Forums were set up primarily to help jobseekers, they are open to everyone without discrimination and will advise all people with employment-related queries, whether jobseekers, students or workers considering a change in career.

c) Equal access for users to vocational counselling and guidance services

• Administrative guarantees

- Jobseekers

Anyone registered with the FOREM may make use of the guidance services provided by the FOREM's general or specialised counsellors.

Registration or re-registration can be regarded as the first stage in the process of assisting jobseekers. This begins with the identification of the users' needs and is fuelled progressively by activities in areas such as initial or further training, guidance, jobseeking and integration.
Entitlement to register with the FOREM covers all jobseekers over the age of 18 residing or wishing to reside in the Walloon Region, all non-nationals entitled to free movement within the European Union (EEC regulation 1612/68) and all foreigners with a valid residence permit.
- Workers, students and other private individuals
As a public service, the FOREM also responds to so-called ad hoc requests.
It will take appropriate action as quickly as possible, albeit depending on the resources available, in response to any request for support, guidance, career planning or vocational retraining from workers, persons wishing to get back into the labour market after varying periods of absence, students over 18 – many of whom will have dropped out of school or higher education – or any other private individual with a query on a vocational matter.
Rules of professional conduct (on equal treatment, confidentiality, etc.) also apply when the FOREM gives guidance and support to these members of the public.
- Workers affected by collective redundancies
These people are dealt with on a voluntary basis by retraining units, which are special bodies set up by the FOREM when there has been a collective redundancy. They offer ongoing psychological and welfare support, assistance with social insurance and administrative formalities. These services provide extra support for the process of reorientation or retraining which runs in parallel through the establishment of a vocational assessment and a new or amended career plan and assistance in implementing plans.
• Legislative guarantees
The FOREM provides free services to private individuals residing or intending to reside in the region under the public service legislation on equal treatment (the Decree of the Walloon Regional Council of 6 May 1999 on the Walloon Office for Employment and Vocational Training , Articles 1bis.3° and 5).
Other employment service providers are required to treat workers "objectively, with respect and without discrimination" (Decree of the Walloon Regional Council of 13 March 2003 on the certification of placement agencies, Article 12.15° and 25°).
The rules on equal treatment and means of preventing and punishing infringements thereof are confirmed and fleshed out in the Decree of the Walloon Regional Council of 27 May 2004 on equal treatment in employment and vocational training.
The effect of this legislation is that employment services, particularly those providing vocational guidance, are accessible to all workers residing lawfully in Belgium.

X. Information on FOREM staff
Total staff numbers in the FOREM on 1 February 2008 were the equivalent of 3 654 full-time posts.
Staff numbers are broken down as follows:
- to show the distribution of staff over the different departments (Training, Advice and Support) in the FOREM as a whole (at both head office and regional branch level);
- to show the distribution of staff over the different departments (Training, Advice and Support) at head office level alone;
- to show the distribution of staff over the different departments (Training, Advice and Support) at regional branch level alone;
- singling out staff assigned specifically to vocational guidance services (vocational guidance counsellors and staff assigned to Employment and Training Forums).
The representative of Belgium also provided additional written background information on the situation relating to Article 9 in her country."

150. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 9 ESTONIA
"The Committee concludes that the situation in Estonia is not in conformity with Article 9 of the Revised Charter on the grounds that in practice access to vocational guidance is restricted to registered unemployed persons and those threatened with unemployment."

151. See Article 1§4.

RSC 9 IRELAND
"The Committee concludes that the situation in Ireland is not in conformity with Article 9 of the Revised Charter because access to vocational guidance for nationals of the other states party which are not members of the European Union is not guaranteed."

152. The representative of Ireland informed the Secretariat that he was not in a position to submit written information concerning all cases of non conformity for the first time relating to Conclusions 2007, because these cases are currently being examined by inter-departmental committees. Written information concerning all cases will be addressed in next reports on the relevant provisions.

Article 10§1 – Promotion of technical and vocational training and the granting of facilities for access to higher technical and university education

RSC 10§1 IRELAND (Charter until Conclusions XVI-2)
"The Committee concludes that the situation in Ireland is not in conformity with Article 10§1 of the Revised Charter on the grounds that the indirect discrimination suffered by nationals of other states party due to the length of residence requirements for access to higher education."

153. The representative of Ireland again said that the legislation on the length of residence condition (Articles 9, 10, 15 and 18 of the Charter) was still being considered by interdepartmental committees to establish whether it could be modified. He acknowledged that it was a slow process. He drew a parallel with the situation in Denmark, except that in the Irish case the period was one year and not two.

154. The ETUC representative said that the Irish representative had supplied the same information the last time and had offered no assurances that the situation would change.

155. In answer to the representatives of the Czech Republic and Estonia, the Irish representative said that university admission fees were applied, but were very low (about € 100) and the selection process was based on manpower needs in one or more specific sectors. Admission conditions varied according to university and subject.

156. The representative of Romania did not accept the analogy between Denmark and Ireland, and asked whether the Committee could consider a one year residence condition to be acceptable. There was also the problem of the late submission of the report, followed by the non-appearance of the next one.

157. The representative of Belgium thought that it was a question not only of whether or not the length of residence was excessive but also of the requirement in the Charter for equal treatment between Irish and other nationals.

158. The representative of France agreed with the representative of Belgium on the importance of equal treatment and thought that one year's length of residence was a

handicap. There was also the issue of the submission of Irish reports. She asked what the reference period was in this case.

159. The Secretariat confirmed that no reports had been submitted for 2001-2004. The problem of reports went back much further, thus obliging the ECSR to rely on still more out-of-date information.

160. The representatives of the Czech Republic and France proposed that they vote on a warning to Ireland.

161. The Committee voted on a warning to Ireland, which was rejected (9 votes for, 10 against and 13 abstentions).

162. The Committee urged the Government of Ireland to bring the situation into conformity with Article 10§1 of the Charter.

RSC 10§1 SLOVENIA

"The Committee concludes that the situation in Slovenia is not in conformity with Article 10§1 of the Revised Charter because nationals of other states party residing or working lawfully in the country are not granted equal treatment regarding access to vocational training."

163. Since the ground for non-conformity was more or less the same for Articles 10§1, 10§2, 10§3 and 10§5, the Chair proposed to examine them together.

164. The representative of Slovenia said that the situation was unchanged. The residence conditions remained. Bilateral agreements had been reached with certain countries, based on the reciprocity principle.

165. The representatives of Romania, France and the ETUC representative drew attention to the five years' residence requirement to obtain a permanent residence permit and to be eligible for admission to education and vocational training. They asked whether any changes were planned.

166. The representative of Slovenia said that the aliens' legislation was being reviewed but she could make no promises concerning the length of residence.

167. In answer to the representative of Belgium, the Secretariat said that Article 10§1 concerned both higher education and vocational training.

168. The Committee urged the Government of Slovenia to bring the situation into conformity with Article 10§1 of the Charter.

Article 10§2 –Apprenticeship

RSC 10§2 SLOVENIA

"The Committee concludes that the situation in Slovenia is not in conformity with Article 10§2 of the Revised Charter because nationals of other states party to the Charter and the Revised Charter lawfully residing or working in the country are not granted equal treatment regarding access to apprenticeships."

169. The representative of Slovenia repeated what she had said in connection with Article 10§1.

170. The Committee referred to its decision on Article 10§1.

Article 10§3 – Vocational training and retraining for adult workers

RSC 10§3 BELGIUM (Charter until Conclusions XVI-2)
"The Committee concludes that the situation in Belgium is not in conformity with Article 10§3 of the Revised Charter on the grounds that it has not been established that nationals of other states party are guaranteed equal treatment as regards access to continuing training."

171. The representative of Belgium announced a number of measures to establish equal access to vocational training. In the Flemish region, equal access was guaranteed under a special management agreement and by the decree of 8 May 2002 on proportional participation in the labour market, the decree of 30 April 2004 on the job seekers' charter and the Non-Discrimination Act of 10 May 2007. She added that apart from an obligation to pay a registration fee and to demonstrate the appropriate linguistic level, there were no restrictions in the Walloon Region on access to training.

172. The Committee invited the Government of Belgium to supply all relevant information in the next report and decided to await the ECSR's next assessment.

RSC 10§3 IRELAND (Charter until Conclusions XVI-2)
"The Committee concludes that the situation in Ireland is not in conformity with Article 10§3 of the revised Charter on the grounds of the indirect discrimination suffered by nationals of other states party residing or working lawfully in the country since they are probably more affected than Irish nationals due to the length of residence condition for access to continuing vocational training."

173. The representative of Ireland repeated what she had said in connection with Article 10§1.

174. The Committee referred to its decision relative to the article 10§1.

RSC 10§3 SLOVENIA
"The Committee concludes that the situation in Slovenia is not in conformity with Article 10§3 of the Revised Charter because nationals of other states party to the Charter and the Revised Charter lawfully residing or working in the country are not granted equal treatment regarding access to continuing vocational training."

175. The representative of Slovenia repeated what she had said in connection with Article 10§1.

176. The Committee referred to its decision on Article 10§1.

Article 10§5 – Full use of facilities available

GENERAL DISCUSSION ON ARTICLE 10§5

177. The Secretariat said that Article 10§5 was mainly concerned with the conditions governing students' attendance at university, the granting of financial assistance and the inclusion in employees' normal working hours of time spent on supplementary training.

178. The financial assistance referred to in Article 10§5b had to be interpreted broadly to apply to a wide range of measures concerned with vocational training.

179. The representative of France thought that the different paragraphs of Article 10§5 were confusing. She hoped that the secretariat would clarify such notions as initial and vocational training. The ECSR was not sufficiently clear about how the various problems raised related to the various paragraphs of Article 10.

180. The representative of Cyprus expressed surprise that the ECSR had ruled several situations to be incompatible with Article 10§5. He said that 19 countries were not in conformity with Article 10 and thought that the Committee should reflect on this.

181. The Committee instructed the Secretariat to make a general presentation at the next meeting of Article 10§5 and, in particular, at the request of the representative of France, of the distinctions that were made between paragraph 4 of the Charter and paragraph 5 of the Revised Charter, so that all the representatives could have a clearer picture of this provision.

RSC 10§5 BELGIUM (Charter until Conclusions XVI-2)

"The Committee concludes that the situation in Belgium is not in conformity with Article 10§5 of the Revised Charter on the grounds that nationals of other states party of the Charter and the Revised Charter residing or working lawfully in the country are not granted equal treatment regarding financial assistance."

182. The representative of Belgium said that the situation was unchanged and there was no new information. Access to studies was free but studying was still expensive. The authorities had understood this but were not currently in a position to change anything. The granting of financial assistance was not unconditional. For example, under a French Community ministerial order of 26 June 1991, students receiving financial assistance who interrupted their studies could be required to repay between 40 and 80% of the assistance received, according to how far from completing their course they were.

183. At the request of the representatives of France and Romania, the Chair asked the Government of Belgium to supply detailed estimates of the current financial cost and what it would be if the system were reformed.

184. The Committee urged the Government of Belgium to bring the situation into conformity with Article 10§5 of the revised Charter.

RSC 10§5 FINLAND (Charter until Conclusions XVI-2)

"The Committee concludes that the situation in Finland is not in conformity with Article 10§5 of the Revised Charter because nationals of other states party residing or working lawfully in the country are not guaranteed equal treatment with regard to financial assistance for training.

185. The representative of Finland informed the Committee of the entry into force of new 2007 legislation (information supplied by the education ministry that did not feature in the report). These amendments clarified the situation on foreign nationals' eligibility for financial assistance for study purposes.

186. Assistance could be granted to students who were Finnish nationals if they studied for a minimum of two months. It was granted to foreign nationals if they were permanently resident in Finland for purposes other than studying, nationals of an EU member state (or a member of a family containing an EU national) or nationals of a Nordic country, and were

legally residing in Finland in accordance with section 157 of the Aliens Act. Foreign nationals must have sufficient financial resources not to be a burden on the Finnish social security system.

187. The Committee invited the Government of Finland to supply all relevant information in the next report and decided to await the ECSR's next assessment.

RSC 10§5 FRANCE

"The Committee concludes that the situation in France is not in conformity with Article 10§5 of the Revised Charter because equal treatment for nationals of the Parties lawfully resident or working normally in France is not guaranteed as regards financial assistance for training."

188. The representative of France said firstly that a distinction had to be drawn between initial and vocational training for students under the French system. This particular case mainly concerned initial training.

189. The situation had not changed. France hosted more than 260 000 foreign students. Students from non-EU member states were eligible for direct assistance from the education ministry and other scholarships from the foreign ministry, 90% of which went to such students, who were given priority. Four percent of the financing came from the state, or local or regional authorities and in 2006 it amounted to € 9 370 million.

190. At the request of the representative of Poland, the representative of France said that the next report would include detailed information on scholarships awarded, broken down by nationality.

191. The Committee invited the Government of France to supply all relevant information in the next report and decided to await the ECSR's next assessment.

RSC 10§5 IRELAND (Charter until Conclusions XVI-2)

"The Committee concludes that the situation in Ireland is not in conformity with Article 10§5 of the Revised Charter on the ground that nationals of other states party lawfully resident or working in Ireland are not treated equally with respect to fees (non-EU nationals) and financial assistance (EU and non-EU nationals)."

192. The representative of Ireland referred to the discussion on length of residence under Article 10§1.

193. In answer to the representative of the Czech Republic, he said that they were talking about types of training at different levels, applicable to everyone – students and adults – and about requirements relating to education costs.

194. The representative of France again spoke of her confusion regarding the various paragraphs of Article 10.

195. The Secretariat said that Article 10§5 of the Revised Charter corresponded to Article 10§4 of the Charter. The "new" paragraph 4 of the Revised Charter concerned the long-term unemployed and paragraph 5 covered all the applications of Article 10 (financial assistance) without discrimination.

196. The representative of Belgium asked about the scope of the one-year residence requirement, since it was not clear from the reasons given for non-compliance.

197. The representative of Ireland said that this period applied either nationally or at local authority level. For example, one year's residence was required in Dublin and Cork. It was also necessary to refer to the colleges and education establishments concerned. The Irish authorities required at least one year's link with Ireland.

198. The Committee urged the Government of Ireland to bring the situation into conformity with Article 10§5 of the Charter.

RSC 10§5 NORWAY (Charter until Conclusions XVI-2)

"The Committee concludes that the situation in Norway is not in conformity with Article 10§5 of the Charter for the following reasons:

– foreign students who are nationals of other states party to the Charter and the Revised Charter which are not members of the European Union or are nationals of certain central and eastern European countries are not treated on an equal footing with Norwegian students as regards financial assistance for education;
– it has not been established that time spent on supplementary training at the request of an employer is counted as ordinary working hours."

First ground of non conformity

199. The representative of Norway said that the situation was unchanged. The situation in her country was similar to that in Denmark regarding Article 10§4.

200. The Secretariat recognised that the situation was unclear because in this case initial training differed from continuing vocational training for young people and for adults. It asked whether financial assistance only concerned university education or also other forms of vocational training. There was no clear demarcation line. In many cases it was provided in different areas. The ECSR had taken a very broad ranging approach and had attempted to cover all types of vocational training.

201. The representative of the Czech Republic asked what form of training was involved here and if university education was free in Norway.

202. As far as the representative of Norway was aware, university was free, as in many other countries, apart from a registration fee of less than € 100.

203. In the light of this reply, the representative of the Czech Republic concluded that the purpose of financial assistance was therefore to help students to enter training.

204. The Committee urged the Government of Norway to bring the situation into conformity with Article 10§5 of the revised Charter.

Second ground of non conformity

205. The representative of Norway provided the following information in writing :

> "The Norwegian Government would like to apologies for lack of information regarding Article 10§5.c in previous reports. Training on the request of an employer will normally be counted as ordinary working hours if the training is held during the ordinary working time."

206. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 10§5 SLOVENIA

"The Committee concludes that the situation in Slovenia is not in conformity with Article 10§5 of the Revised Charter because nationals of other states party to the Charter and the Revised Charter lawfully residing or working in the country are not granted equal treatment regarding financial assistance."

207. The representative of Slovenia repeated what she had said in connection with Article 10§1.

208. The Committee referred to its decision on Article 10§1.

RSC 10§5 SWEDEN

"The Committee concludes that the situation in Sweden is not in conformity with Article 10§5 of the Revised Charter as foreign students are subject to a length of residence requirement for entitlement to financial assistance for training."

209. The representative of Swedeh provided the following information in writing :

"The Swedish study support system has a long tradition and is an important part of the Government's education policy. The system is generously designed and creates the financial conditions for many people to get an education. It also means that the state's annual investment in this area is substantial. The Swedish study support system is equal for all and is granted independently of parents' or family's financial situation. To be entitled to student support the student must fulfill certain basic requirements and be attending a school/higher education institution or course that qualifies him or her for study support. The two main types of financial aid are study support and upper secondary study allowance. Education in the state school system and universities and higher education institutions in Sweden is generally free of charge. The study support is therefore primarily intended to cover a student's living costs during his/her education.

The designs of the study support systems vary between countries and are therefore difficult to compare. Certain countries, among them the Nordic countries, have well developed study support systems which also offer portability of student support. There is also a difference between countries in whether the support is given directly to the student, such as grants or loans, or if the support is more of an indirect character such as tax reductions or family support. In certain countries the support is subjected to a means-test whereas in other countries it is equal for all. Students that are attending upper secondary and post-secondary vocational education and training may be entitled to study support. Study support consists partly of a loan and partly of a grant that is given for the period of study, normally 40 weeks per academic year. It is up to the student whether he/she wants to take out a loan. The loan is about two-thirds of the total amount of study support. The total amount per four weeks is ca 7 500 Swedish kronor in 2008. Under certain circumstances the student can be eligible to a supplementary loan of about 1 600 Swedish kronor per four weeks. For students with children there is also a possibility to receive extra child allowance. It is possible for students to work and earn a limited amount alongside their studies without support being reduced. Study support for studies at upper secondary level can be granted for a maximum of 120 weeks. At post-secondary level the maximum length of time with student support is 240 weeks. In 2007 approximately 93 800 students were granted study support for studies at upper secondary level. The corresponding figure at post-secondary level was approximately 301 400 students. The total amount disbursed as study support in 2007 (not including upper secondary study allowance) was 18.7 billion Swedish kronor (8.3 billions as study grants and 10.4 billions as study loans).

Since the 1st of July 2006 foreign citizens' right to study support is no longer conditional to a certain period of residence in Sweden. A foreign citizen is since the 1st of July 2006 entitled to Swedish study support under the terms of the Swedish regulations if he or she holds a permanent residence permit and has moved to Sweden for a purpose other than to study (3rd chapter 4 § Student Support Act, 1999:1395). It is also important to emphasize that

exceptions can be made from the rule about permanent residence permit if there are specific reasons for doing so.
Under the terms of EC law, EU, EEA and Swiss nationals may be treated as Swedish citizens and be entitled to study support if they fulfil one of the following conditions:
1) they are working or running their own business in Sweden, 2) they are a close relative of someone working or running his/her own business in Sweden, or 3) they enjoy a status as a permanent resident of Sweden. Third-country nationals may also be treated as Swedish citizens and be entitled to study support aid if they have a status as a long-term resident in Sweden or in another EU Member State. The latter must also have a residence permit in Sweden (1st chapter 4-6 §§ Study Support Act, 1999:1395). Through these regulations the EC-legislation has been transferred into national law. In addition to the EC-legislation in this area, which is applicable to all EU-countries, the issue of foreign citizens' right to study support has been brought to the fore in a number of judgments by the Court of Justice of the European Communities.

Sweden has a generously designed and well developed study support system that is equal for all, is granted independently of parents' or family's financial situation and also involves portability of student support. The state's investment in this area are substantial. Most countries do not offer the same facilities.
On EU-level Sweden notes a considerable expansion of students' rights according to Community law and hence a corresponding expansion of the member states' obligations. Sweden follows closely this development. In this context Sweden also pays regard to the criticism presented by the Council of Europe.
Sweden is also involved in a network within the Bologna process dealing with portability of student support. The discussion about foreign citizens' right to study support is also in progress within this group of countries."

210. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 11§1 – Removal of the causes of ill-health

RSC 11§1 BELGIUM

"The Committee concludes that the situation is not in conformity with Article 11§1 of the Revised Charter on the grounds that it has not been established that the right to protection of health is effectively guaranteed."

211. The representative of Belgium provided the following information in writing :

"The CEDS asks for the following information in the next report:
- the main causes of death for the period 1997-2004;
- up-to-date data on the maternal mortality rate;
- information on the management of waiting lists and waiting times for health care;
- information on health care professionals and facilities in the French and Flemish Communities.

This information will appear in the next report on Article 11§1."

212. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 11§2 – Advisory and educational facilities

RSC 11§2 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 11§2 of the Revised Charter on the grounds that it has not been established that school health check-ups are available and carried out systematically."

213. The representative of Italy provided the following information in writing :

"In recent years, the Italian government has been increasingly concerned with matters relating to health, prevention and improving the quality of life, particularly among the school-age population.
On 3 July 2003, the education ministry and the Federalimentare (national federation of food industries) signed a collaboration agreement on developing and implementing nutrition education programmes for young persons to encourage them to behave responsibly and adopt a balanced diet. The agreement has led to a number of initiatives, such as an introduction to diet, movement and lifestyles project, a competition on the language of food: the history of food in Italy from early times to the present day, which started in the 2004-2005 academic year in collaboration with the ministry of culture, and the preparation of guidelines on a correct lifestyle.
In conjunction with the health ministry, the education ministry has developed a health programme run by schools, families, volunteers, non-profit making associations, local authorities and health prevention institutions. As part of the programme, an agreement was signed in October 2006 between the education ministry and the Italian anti-cancer league (LILT). The provincial and regional sections of the league have organised activities in schools, from the final year of primary on, on the topics of smoking, alcohol and nutrition. The ministry and the league have a joint commitment to encouraging, supporting and developing initiatives to disseminate information on cancer pathologies to promote proper lifestyles and prevent tumours.
To encourage young people to adopt a healthy diet, the health ministry has invited regions to offer menus in schools with the right nutritional and energy content. The 2005-2007 national prevention plan encouraged the distribution of after-school snacks of fruit and fresh vegetables.
A pilot project in this area has experimented with encouraging healthy snacks through the use of automatic vending machines. The main aim is to encourage pupils to consume fruit and vegetables at school and, indirectly, at home, as a means of maintaining their physical and psychological well-being and preventing illness and nutritional imbalances. The project includes a pilot activity, support for schools, teacher and pupil involvement in training and other activities, an awareness-raising campaign and the production of information material.
The experiment took place between December 2006 and May 2007 in three regions representing northern, central and southern Italy (Emilia-Romagn, Lazio and Puglia). Following a positive outcome in the regions concerned, it will shortly be extended to the rest of the country.
One major development in 2007 was the health ministry's national plan on the theme, improving health by making it easy to make healthy choices. It sets out to promote healthy life-styles as a long-term means of preventing chronic conditions. This reflects a need to make it easier for citizens to adopt healthy behaviour and to offer a comprehensive response to the major risk factors, such as smoking, alcohol, poor diets and physical inactivity. Collaboration between the health and education ministries includes the following activities:
1) joint national guidelines for school and health personnel aimed at preventing:
- obesity and nutritional imbalances, including anorexia and bulimia;
- drug, alcohol, tobacco, medication and Internet dependencies, in conjunction with the ministry of social solidarity;
- psychological disorders;
2) active co-operation between provincial education offices and local health authorities throughout the country;

3) task forces of experts to offer support to pupils, families and teachers at local and school levels;
4) a joint training course for health staff and teachers on topics of general interest to them but with varied content to take account of the different professions concerned.

These developments show that the conduct of health education has taken on an inter-disciplinary dimension. This has made it necessary to develop a number of specifically national initiatives and guidelines, though schools retain their general freedom of action. The result has been various multidisciplinary health education programmes and activities, in conjunction with local health and local government authorities, and various strategies to prevent and combat ill health that cut across the different school disciplines.
In conjunction with other relevant ministries responsible for health, the environment and youth policy, and with local and regional authorities, the ministry of education has developed a three-year (2007-2010) national plan to promote pupils' and students' well-being. It provides for experiments, research and operational programmes aimed at fostering a culture of health and well-being and improving quality of life within schools.
The plan covers pupils at all levels and has ten elements: non-dependency; diet and health; it's our environment; we are all champions; voluntarily to school; different and equal; citizens of the world; respect and legality; a sure path and friendly technologies. The first two elements focus on encouraging healthy lifestyles, preventing alcohol, tobacco, medication and drug dependency and related pathologies, and combating obesity and eating disorders, particularly anorexia and bulimia.
As noted in previous reports, following the entry into force of legislative decree 502/1992 and subsequent modifications and extensions, there have been changes to the school health service, which is responsible for preventive activities among pupils, teachers and other staff of public and private schools. Responsibility for the service has been transferred to the regions, which must give priority to the provisions of the national and relevant regional health plans. The school health services provide various forms of assistance and other programmes from the nursery level on. The pre-school and school departments of local health authorities provide the following services:
- various forms of screening by age groups targeting specific conditions, including orthopaedic, dental and eyesight tests;
- checking for and monitoring infectious diseases;
- health and hygiene monitoring of school canteens and other buildings and facilities;
- health checks on kitchens and kitchen staff;
- health information and education, in conjunction with other educational staff;
- health checks on teachers and other staff to prevent tuberculosis.
Each local health authority draws up an action and monitoring plan for the schools and pupils in its area and responds to reports from families or teachers of specific illnesses, disorders or learning difficulties."

214. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 11§3 – Prevention of diseases

RSC 11§3 BELGIUM

"The Committee concludes that the situation in Belgium is not in conformity with Article 11§3 of the Revised Charter on the grounds that it has not been established that the right to protection of health is effectively guaranteed.

215. The representative of Belgium provided the following information in writing :

"A Information on abestos.
a) The main legislation includes:

- Royal decree of 23 October 2001 restricting the sale and use of certain dangerous substances and preparations (asbestos) (MB.30.11.2001);
- Royal decree of 16 March 2006 to protect workers against risks linked to exposure to asbestos (MB.23.03.2006);
- Programme Act of 27 December 2006 (Part IV, Chapter VI, sections 113 to 133) (MB. 28.12.2006);
- Royal decree of 11 May 2007 implementing Part IV, Chapter VI of the Programme Act of 27 December 2006 establishing a compensation fund for asbestos victims (MB. 29.05.2007).

[…]

Employment legislation has become increasingly strict over time for the purposes of protecting workers against risks linked to asbestos exposure.

For example, the 2006 royal decree describes in detail who may or must do what and how when asbestos is present.

d) Asbestos fund to compensate victims

Since 1 April 2007, all victims of asbestos exposure in Belgium who are affected by mesothelioma, asbestosis or any other condition specified by the crown, and their dependents, have been entitled to compensation from the asbestos fund established by the Programme Act of 27 December 2006 (sections 113-133) (MB. 28.12.2006).

[…]

e) Surveys of asbestos-related health problems

The health council, the scientific advisory body for all issues relating to public health and the environment, has issued an opinion on refractory ceramic fibres (opinion 8119 approved in March 2007).

There were no surveys of asbestos-related health problems during the 2005-2006 reference period.

[…]

Since the number of applications to the asbestos fund is thought to be too low, a campaign is to be launched to raise awareness of it among doctors who advise mutual health funds and the self-employed.

[…]

B. Information on ionising radiation:

a) Applicable legislation

The main legislation includes:

- Royal decree of 20 July 2001 establishing regulations to protect the general population, workers and the environment from the effects of ionising radiation (MB.30.08.2001; entered into force on 01.09.2001);
- Royal decree of 20 July 2001 on the functions and membership of the department of the federal nuclear control agency responsible for enforcing the Act of 15 April 1994 on the protection of the general population and the environment against the effects of ionising radiation and establishing the federal nuclear control agency (MB. 30.08.2001).
- Royal decree of 17 October 2003 establishing a nuclear and radiological emergency plan for Belgium (MB. 20.11.2003).

[…]

e) Implementation of the royal decrees of 20 July 2001 and 17 October 2003

There are various regulations to implement, extend or modify the royal decree of 20 July 2001 establishing regulations to protect the general population, workers and the environment from the effects of ionising radiation and the royal decree of 17 October 2003 establishing a nuclear and radiological emergency plan for Belgium.

[…]

C. Information on atmospheric pollution

The next Belgian report on Article 11§3 will include the requested information.

The Flemish Community has undertaken a fundamental reform of its administrative structure as part of the Beter Bestuur Beleid (better administration) project.

To make this structure more transparent and dynamic, there has been a review of its departments and institutions. Thirteen new policies were launched on 1 April 2006, including one on the environment, nature and energy (Leefmilieu, Natuur en Energie - LNE).
[…]

D. Water and soil pollution
The next report will include the requested information.
Reference should also be made to the legislation and regulations concerning nitrate pollution.
[…]

14. Food safety
The next Belgian report on Article 11§3 will include the requested information.

15. Measures to combat smoking, alcoholism and drug addiction
The information requested will be included in the next report.
Certain points can be highlighted now:
a) The German-speaking Community
The ASL (Arbeitsgemeinschaft für Sucht und Lebensbewältigung or addiction prevention and coping with life association) was established in the German-speaking Community in March 1997, as an independent non-profit making organisation.
[…]
One of its objectives is to inform and educate the public on the risks linked to dependency, focussing on both products and behaviour.
The ASL is active in all the areas of primary prevention.
b) The French Community
Reference should be made to the government of the French Community royal decree of 30 April 2004 approving the five-year health promotion programme 2004-2008 (MB. 07.07.2004).
Belgian anti-smoking legislation is fairly complex.
It is divided among the federated entities, though policy on pricing and advertising and its application remains a federal responsibility.
[…]
There is a telephone line "Tabac-stop" (0800 111 00; site internet: www.tabac-stops.be). This is a free service that responds to any questions on tobacco, dependency, assistance with withdrawal and continuing support with maintaining a tobacco-free life.
The non-profit making association Eurotox is the result of collaboration between three associations in the French Community and Brussels-Capital Region active in various drug-related areas:
- infor-drogues: helpline, prevention, training, risk reduction and non-hospital treatment;
- modus vivendi: HIV/Aids prevention, risk reduction, training, liaison and research;
- Prospective Jeunesse: prevention, training and support.
[…]
b) Federal level:
The following decrees have not yet been notified to the ECSR:
- Royal decree of 28 December 2006 on the allocation of funds for combating addiction (MB. 09.02.2007).
- Royal decree of 24 August 2004 on the use of funds for combating smoking (MB. 01.10.2004).

16. Epidemiological monitoring
[…]
The information requested by the Committee will appear in the next report, particularly concerning the royal decree of 1 March 1971 on the prevention of transmissible diseases (MB. 23.04.1971). This establishes a system of compulsory reporting of certain conditions. It was modified in 1976.

17. Immunisation
In Belgium the communities, which are responsible for health promotion and prevention, each have their own vaccination and immunisation policy.
[…]
In the French Community vaccination is one of the priorities in the five-year health promotion programme 2004-2008 (http://www.sante.cfwb.be).
[…]
Under the co-operation agreements between the French and German-speaking communities the two undertake joint vaccination campaigns, with the French Community responsible for purchasing.
The French Community also represents the German-speaking Community in the federal infectious diseases working group. In practice, the French Community already monitors and scrutinises infectious diseases on behalf of its German-speaking counterpart. Those concerned are in regular contact.
The information requested by the Committee will be included in the next report. The representative of Belgium also provided additional written background information on the situation relating to Article 11§3 in her country."

216. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 11§3 IRELAND

"The Committee concludes that the situation in Ireland is not in conformity with Article 11§3 of the Revised Charter because of a repeated failure to supply the information requested on the prevention of asbestos-related risks."

217. The representative of Ireland informed the Secretariat that he was not in a position to submit written information concerning all cases of non conformity for the first time relating to Conclusions 2007, because these cases are currently being examined by inter-departmental committees. Written information concerning all cases will be addressed in next reports on the relevant provisions.

Article 15§1 – Vocational training arrangements for the disabled

RSC 15§1 BELGIUM

"The Committee concludes the situation in Belgium is not in conformity with Article 15§1 of the Revised Charter on the ground that there is no sufficient anti-discrimination legislation covering education for persons with disabilities".

218. The representative of Belgium provided the following information in writing :

"The ECSR noted that education was a community responsibility in Belgium and that it appeared from the report that none of them had adequate anti-discrimination legislation concerning education.
It also asked for various forms of information.
The information requested has been submitted to the secretariat and will be included in an addendum to Belgium's 2007 report that mainly concerns Article 15§1.
Explanations
The Committee asks what steps have been made in communities other than the Flemish Community to move away from a medical definition of disability and towards a more social definition, like that endorsed by the WHO in its International Classification of Functioning (ICF).

On 17 July 2007, a Protocol was agreed by the Federal government, the Flemish Community, the French Community, the German-speaking Community, the Walloon Region, Brussels-Capital Region, the Joint Community Commission and the French Community Commission. The protocol is concerned with securing reasonable adjustments under the anti-discrimination legislation of 25 February 2003, which also amends the legislation of 15 February 1993 establishing an equal opportunities and anti-racism centre (MB.20.09.2007).
The description of adjustments in article 2§1 of the protocol refers to persons in a disabling situation (en situation de handicap).
As with the anti-discrimination law, a conscious decision has been taken not to include a definition in the protocol itself. This avoids a restrictive interpretation of disability and allows for a changes in the definition of persons with disabilities.
At all events, disability has to be understood to mean any lasting and significant restriction on individual participation in activities resulting from a dynamic interaction between:
- mental, physical, psychological or sensorial impairments;
- restrictions on performance of activities;
- and personal and environmental contextual factors.
This description refers to the International Classification of Functioning, Disability and Health (ICF), which WHO endorsed at its fifty-fourth World Health Assembly on 22 May 2001.
Disability may affect persons from birth, or have a later onset if it is linked to illness, an accident or old age.
According to the protocol, anyone whose participation in social life or employment is restricted or otherwise impaired, and not just persons who are legally recognised as disabled, is deemed to be a person with disabilities.
The protocol offers the federal government, communities and regions criteria for determining what constitute reasonable adjustments aimed at securing the social and occupational inclusion of persons with disabilities.
There are references to such adjustments in numerous directives, decrees and laws, with a view to avoiding differences of treatment depending on which level of government is concerned.
The protocol provides a very general description of "reasonable adjustments" as practical measures to neutralise the restrictive impact of environments that are not adapted to disabled persons' participation in activities.
The adjustments under consideration may be physical, such as architectural adaptations, or non-physical, such as the use of a simplified language. They may also be shared, such as the installation of lifts, or individual, such as the adaptation of a workstation.
According to the protocol, to qualify as "reasonable" adjustments must satisfy four criteria, namely they must:
1. be effective, to enable persons with disabilities to participate properly in particular activities;
2. enable persons with disabilities to participate on an equal footing;
3. enable persons with disabilities to participate autonomously;
4. ensure the safety of persons with disabilities.
The protocol will come into force in each party once its government has approved it."

219. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 15§1 FRANCE

"The Committee concludes that the situation in France is not in conformity with Article 15§1 on the ground that equal access to education (mainstreaming and special education) of persons with autism is not yet guaranteed in an effective manner".

220. The representative of France informed that the outcome of the Autism Plan 2005-2007 was available and that she would submit it to the European Committee of Social Rights for consideration during its assessment of Article 15§1 (Conclusions 2008). She

recalled that the above mentioned Plan foresaw the establishment of 1 436 places for persons with autism in special education establishments and 350 places in educational and domiciliary care services (SESSAD). She highlighted that 1 180 places in establishments for persons with autism as well as the 350 places in SESSADs had been authorised and financed in 2005-2007. Moreover, she pointed out that 1 300 places for adults with autism had also been authorised and financed in *Maisons d'Accueil Spécialisées* ("MAS") and in *Foyer d'Accueil Médicalisé* ("FAM") during the same three years. She further informed that within the framework of a new Autism Plan 2008-2010 additional places were planned to be established.

221. The Committee took note of the positive developments in France and decided to await the ECSR's next assessment on Article 15§1 of the Revised Charter.

RSC 15§1 ITALY

"The Committee concludes the situation in Italy was not in conformity with Article 15§1 of the Revised Charter during the reference period on the grounds that there was no specific legislation prohibiting discrimination on grounds of disability covering education and training".

222. The representative of Italy pointed out that the relevant legal framework was completed by the adoption of Act 67/2006 on the legal protection of persons with disabilities against discrimination. She also highlighted that the European Committee of Social Rights was expected to assess the impact of this Act on the situation with regard to Article 15§1 in its Conclusions 2008.

223. The Committee welcomed the adoption of the new anti-discrimination legislation in Italy and decided to await the ECSR's next assessment on Article 15§1 of the Revised Charter.

RSC 15§1 MOLDOVA

"The Committee concludes that the situation in Moldova is not in conformity with Article 15§1 of the Revised Charter on the ground that there is no sufficient legislation prohibiting discrimination on grounds of disability covering education and training".

224. The representative of Moldova provided the following information in writing :

> "The ministry of the economy and trade has supplied the following information:
> The legal basis for the Moldovan education system is:
> a. The Moldovan Constitution;
> b. The development plan for the Moldovan education system;
> c. The Education Act and other legislation and regulations in application of that Act.
> Under the Education Act, education is one of Moldova's national priorities. Education policy is based on the principles of humanisation, accessibility, adaptability, creativity and diversity. Teaching is democratic, humanist, open, flexible and formative. It seeks to stimulate personal development and is based on national cultural and universal values. Public education is secular, and opposed to ideological, political, racial or national discrimination.
> The major objective of the system of education is to permit free and harmonious personal development and the formation of creative personalities adapted to changing living conditions.
> The Education Act confirms that there is a guaranteed right to education irrespective of nationality, sex, age, social origin and condition, political or religious affiliation or criminal background. The state provides equal opportunities for access to state secondary, vocational, specialist and further and higher education, according to students' aptitudes and skills.

Under article 1§3 of the Constitution, Moldova is a democratic state governed by the rule of law whose supreme values are individual dignity, rights and freedoms, the freedom of individuals to develop their personalities, justice and political pluralism.
Article 51 of the Constitution entitles disabled persons to special protection. The state must treat them normally from the standpoints of rehabilitation, education, instruction and social integration.
Disabled persons' right to education is enshrined in section 33 of the Special Education Act, under which:
- special education is the part of the education system concerned with the education, instruction, recovery and social integration of pre-school and school age children with physical, mental, sensory, reading, socio-affective, behavioural and associated disorders;
- children with mental and physical disorders are diagnosed in the presence of their parents or guardians by educational psychological and medical services set up by government decision and reporting to the ministry of education and sport;
- special education is provided in special educational establishments that offer boarding facilities or an extended curriculum;
- syllabuses are based on teaching plans, study programmes and educational technologies that take account of the type and level of disability and are directed towards compensating for and correcting the deficiency, recovery and social integration;
- the state meets all the costs of children in special education establishments;
- the length of compulsory special education depends on the type and degree of disability and lasts for 8 years in the case of children with metal disabilities and 10-12 years for those with physical or sensory ones;
- in the first years of special education for children with physical, sensory or reading disabilities auxiliary schools employ teachers with various forms of specialist training for the blind, hard of hearing and so on;
from the fifth to twelfth years such children are taught school subjects by teachers with a general training who have also specialised in psychopedagogy;
- for those who leave special institutions, vocational training in occupations suitable for such young persons is provided in special schools and other institutions specialising in vocational secondary education.
With a view to modernising the instruction, education, educational and vocational guidance and social integration of persons with special educational needs, the ministry of education and youth has adopted an inclusive education plan.
Remedial education and multidisciplinary medical treatment and rehabilitation are provided for disabled children including various forms of physio- and occupational therapy, in accordance with the medical diagnosis.
In recent years the education and youth ministry has drawn up a national "education for all" strategy, approved by government decision 410 of 4 April 2003, which provides for children with disabilities to be educated within the general education system.
The educational and social integration of children with special education needs takes place in special educational institutions, groups and classes in pre-school institutions and in mainstream schools, including ones that offer instruction in national minority languages.
Under the aforementioned plans and strategies, parents are empowered to determine the type of instruction their disabled children should receive and the type of institution, in accordance with the level and complexity of their disability and their potential for integration.
To optimise the social integration process for special needs children and young persons in special institutions answerable to the ministry, there are skills classes, groups and schools for pupils with mental and sensory, including sight and hearing, disabilities.
Special institutions for physically and mentally disabled children currently offer them instruction, education and rehabilitation by means of popular skills in order to optimise their vocational guidance and social and occupational integration.
Various teaching plans and programmes and assessment tests have also be developed for children with mental disabilities to take account of their level of intellectual development. New educational models for disabled children are currently being developed.
Vocational guidance is based on vocational training, occupational counselling, young

persons' mental and physical development, medical diagnoses and medical recommendations on what constitute suitable skills to be taught.
To help deal with the problems of children in difficulty, a strategy and action programme have been approved to reform the system of residential care for children and to establish minimum standards of care, education, medical assistance, recovery and rehabilitation for children with special educational needs.
On 18 December 2006, the government issued decision 1421 approving the skills and trades to be taught in vocational secondary education, covering some 370 skills required in the labour market. The aim is to increase the numbers of qualified workers and bring the education system more into line with the needs of the labour market, to ensure that children, including vulnerable groups, have proper access to such education and training.
The decision also identified skills to be taught in special vocational education establishments, taking account of the children's level of disability. It requires the ministry concerned to take steps to improve access to vocational secondary education for all vulnerable groups, particularly in rural areas, by developing programmes for children with special educational needs.
To improve access to education, including that of children from vulnerable families, an annual government decision will approve plans for enrolling students and pupils in the first years of further and higher education.
Under government decision 594 of 28.05.2007 on planned enrolments in 2007 in further and higher education establishments (initial years), forms of specialisms and vocational secondary education, with amendments approved in government decision 840 of 25.07.2007 and in accordance with the 2007 rules on admission to further and higher education institutions in Moldova, drawn up and approved by the ministry of education and youth under section 27§2 of the Education Act, no. 547-XIII of 21 July 1995, 15% of the total number of places for each specialism or area of vocational training and type of education in the enrolment plan financed from the state budget are set aside for vulnerable children, including disabled children in categories I and II, children with mental and sensory deficiencies and ones both of whose parents are invalids.
In 2007, a total of 1286 such students were enrolled, representing 15.5% of the 8275 planned places in the budget, including 64 disabled persons/children in categories I and II.
In 2007, 85 pupils were enrolled in special secondary vocational education institutions."

225. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 15§1 NORWAY

"The Committee concludes that the situation in Norway is not in conformity with Article 15§1 on the ground that during the reference period there was no sufficient non discrimination legislation in the field of education".

226. The representative of Norway provided the following information in writing :

"Persons with disabilities are integrated as far as possible in ordinary schools, whether private or public school is chosen. All pupils have a statutory right to a place of employment adjusted their needs. This right is applicable for all pupils, also pupils with disabilities. The education act of 1998 furthermore states that the school has to be fitted out in order to take persons with disabilities in consideration.
It is also stated in the education act that all ordinary instruction shall be adapted to the abilities and aptitudes of each pupil. Pupils, who do not benefit sufficiently from the ordinary instruction, have the right to specialised instruction, whatever the reasons might be.
This legislation provides an equal and non-discriminatory right to education for persons with disabilities."

227. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 15§1 ROMANIA

"The Committee concludes the situation in Romania is not in conformity with Article 15§1 of the Revised Charter on the grounds that there is no effective non-discrimination legislation in relation to disability in education and training and the majority of children with disabilities are in special schools".

228. The representative of Romania did not provide any new information concerning the legal framework but promised to transmit the relevant clarifications to the ECSR for its 2008 Conclusions on Article 15§1.

229. As to mainstreaming, she acknowledged that even though the total number of pupils with disabilities in special schools is still higher than that of those in ordinary schools, the number of pupils with disabilities increased in ordinary schools from 14 193 pupils in 2005-2006 to 20 728 pupils in 2006-2007. During the same school years, the number of pupils with disabilities attending special schools decreased from 28 873 to 27 445. She also informed the Committee that a National Strategy on the social protection, integration and inclusion of persons with disabilities for 2006-2013 was adopted in 2005 to improve the situation further.

230. The representative of Sweden asked to be up-dated on the situation of the children with disabilities who seem to be left without any education. In the absence of clarifications in this regard, many representatives (Belgium, Bulgaria, the Czech Republic, Hungary, Lithuania, Norway, Poland, Sweden and the United Kingdom) urged that information on the type of education of these children be provided.

231. The Committee urged the Government of Romania to bring the situation into conformity with Article 15§1 of the Revised Charter in respect of the children left out of education as soon as possible.

Article 15§2 – Employment for persons with disabilities

RSC 15§2 FRANCE

"The Committee concludes that the situation in France is not in conformity with Article 15§2 of the Revised Charter on the ground that during the reference period the right of persons with disabilities to protection against discrimination in employment was not effectively guaranteed".

232. The representative of France referred to written information already provided in the 2007 report, and added that there was no new information.

233. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 15§2 LITHUANIA

"The Committee concludes the situation in Lithuania is not in conformity with Article 15§2 of the Revised Charter on the grounds that on the basis of the information provided, that there is a low number of persons with disabilities in employment".

234. The representative of Lithuania provided the following information in writing :

> "We deliver the clarified information, which had been provided in the fith Lithuanian report:
> In 2005, the total number of employed disabled was 29,400 persons (27,500 working age and 1,900 retirement age disabled persons) and in 2006, they were 36,700 persons.
> Total number of persons with disabilities was 248,400 in 2005 and 251,100 in 2006.

In 2005, 8,817 disabled persons were registered with the territorial labour exchanges as seeking employment. 6,806 disabled individuals took part in active labour market measures (It was 1.6 times higher than in 2004 (4,133)). Among the registered unemployed, disabled persons accounted for 5.4 per cent, and among the persons receiving additional support, they made up 14.1 per cent.
In 2005, 3,206 disabled persons were employed (from those 8,817, who were registered as unemployed), including 2,577 persons under permanent employment contracts (981 into vacant jobs, 23 under the established quotas, 644 into subsidised workplaces and 203 were self-employed) and 629 under fixed-term contracts. As compared to 2004, the employment rate of the disabled grew by 17 per cent. In 2005, 310 disabled persons acquired a business certificate, as referred by the labour exchange.
In 2006, the number of disabled persons registered with territorial labour exchange offices was 10,828 or 18.5 per cent more than in 2005.
In 2006, the number of employed disabled persons was 3,809 (from those 10,828, who were registered as unemployed), including 3,230 persons under permanent work contract (1,051 into vacant positions, 23 under the established quotas, 575 into subsidised workplaces, 267 were self-employed and 387 persons under subsidised employment) and 579 persons under fixed-term contracts."

235. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 15§2 MOLDOVA

"The Committee concludes the situation in Moldova is not in conformity with Article 15§2 of the Revised Charter on the grounds that there is no sufficient legislation prohibiting discrimination in employment on grounds of disability".

236. The representative of Moldova provided the following information in writing :

"The Employment and Protection of Jobseekers Act, no. 102-XV of 13 March 2003, is intended to increase labour market competitiveness, and foster economic independence and the right to work. It establishes a number of measures, to be implemented by the national employment agency, to help vulnerable groups such as young persons, women, the disabled, those aged over 45 and ex-prisoners, to find employment. These include occupational mediation, information and consultation, advice and assistance with creating small businesses, preferential loans, encouraging labour mobility and encouraging employers to recruit those leaving further and higher education institutions. Under the legislation, employers who offer individual permanent contracts to disabled school/college leavers whose studies were financed by the state and who have been unable to find work receive from the state each month for eighteen months an amount equal to the minimum wage to pay for the extra costs of hiring such persons. Disabled persons are also eligible for occupational integration and retraining allowances.
The vocational and social rehabilitation of persons with special education needs is based on the national programme for the rehabilitation and integration of persons with disabilities for the years 2007-2009, approved by government decision 459 of 25 April 2007.
One of the main objectives of the labour market and social protection sectoral strategy of the overall economic growth and poverty reduction strategy, approved by Act 398–XV of 02.12.2004, is to encourage the social inclusion of disabled persons. One aspect of this is to encourage the employment of disabled persons who are capable of working but who have major difficulties in finding work and are practically excluded from society as a result.
The employment legislation currently requires the national employment agency to offer its services to persons who are seeking work and are physically and mentally capable of holding a job. However, local agencies also receive applications from category I or II disabled persons whose level of incapacity is unclear, as are the restrictions on their ability to work and the working conditions that would be satisfactory.

A Moldovan-Swedish project aimed at supporting the Moldovan public employment services started in 2006 and involves the establishment of three local centres to help vulnerable groups, including persons with disabilities, to enter the labour market.
Before the centres were set up:
- Consideration was given to Russian and Swedish experience and discussions were held on their work with disadvantaged groups of persons and the forms of occupational rehabilitation used;
- Three local centres were selected - ATE Mun. Chisinau, r. Soroca and r. Cahul – where methods of working with certain groups of disadvantaged persons could be applied, before extending them to other regional centres.

In 2007 employment agencies received applications from 448 disabled persons, including 161 women, and 102 persons, including 48 women, were placed. Of the interviews granted as part of the employment mediation service to persons without unemployment status, 170 were to categories I and II disabled persons, of whom 76 were women. Information and occupational conciliation interviews were granted to 133 category III disabled persons, including 55 women, and 140 categories I and II persons, of whom 76 were women.
The “employment clubs” programme is designed to improve the employment opportunities of the long-term unemployed and other disadvantaged groups, including persons with disabilities, by offering information, psychological support, vocational guidance and practical individual help with finding work. Some 38 persons with disabilities have received assistance under the “employment clubs” programme, by helping them to identify suitable types of work and giving them instruction in job finding techniques and methods.
To help category III, and exceptionally categories I and II, disabled persons to enrol in vocational training or find work, they are offered job selection interviews to determine how far their aptitudes and skills correspond to the requirements of specific occupations. In 2007, some 273 disabled persons were given such interviews and 38 – 15 in category I-II and 23 in category III - completed vocational training courses.
Also in 2007, 103 disabled persons who applied to local employment agencies and whose category I or II period of invalidity had expired were granted occupational integration and retraining allowances corresponding to 15% of the previous year’s national average wage for a period of nine months.
Like other unemployed persons, persons with disabilities are trained by local authorities in public works activities, with a monthly allowance from the unemployment fund equivalent to 30% of the previous year’s national average wage, in proportion to the time actually worked, for up to 12 months. In 2007, 22 persons with disabilities received training in public works activities.
The justice ministry is currently drafting legislation to prevent and combat discrimination. It should strengthen existing legislation and bring it into line with international standards aimed at promoting equal rights for all, whatever criterion is selected.
The legal basis for industrial relations is the Labour Code, approved in Act 154-XV of 28 March 2003.
The current Labour Code establishes the principle of equality and non-discrimination at work. Article 8 of the Code establishes the principle of equality between employees in employment relationships. Direct and indirect discrimination between employees on grounds of sex, age, race, ethnic origin, confession, political convictions, place of residence, disability, trade union membership or activity or any other criteria unrelated to occupational requirements is prohibited. Under this article, it is not discriminatory to establish certain differences, exceptions, references, preferences or rights with regard to employees when these reflect the specific requirements of a job, as laid down in current legislation, or special state protection of persons requiring additional social and legal protection.
Government decision 459 of 25 April 2007 approved the national programme for the rehabilitation and integration of persons with disabilities for the years 2007-2009, which is concerned with the social protection, vocational training and placement of disabled persons and the creation of new jobs through state and local government funding. The aim is to integrate them into society and the economy. The programme is accompanied by a human rights action plan for 2004-2008, approved by parliamentary decision 415-XV of 24 October

2003, and entails the development of a system of occupational and social rehabilitation for persons with special needs. In accordance with international requirements, the national policy on the protection of persons with disabilities offers them initial and continuing vocational training and job placement services. Various measures have been introduced under the action plan on rehabilitation through employment. Over the period 2004-2008, various amendments have been made to the legislation and regulations on the placement process to give priority to disabled persons in all categories and offer employers financial inducements to recruit them.

To enhance the creative and productive capacities of disabled persons, and having regard to individual rehabilitation programmes, Act 821-XII of 24 December 1991 entitles them to work in undertakings, institutions and other organisations in normal working conditions and in specialist undertakings and departments that employ disabled persons, and to carry out any individual or other work not prohibited by law. It is unlawful to refuse to offer an employment contract to disabled persons or to promote or dismiss them or transfer them to another position without their consent because of their disability, unless there is a concurring medical and social assessment to show that their state of health prevents them from carrying out their employment obligations or threatens the health and safety at work of other persons. It is also unlawful to dismiss persons undergoing medical, occupational or social rehabilitation in a relevant institution, irrespective of the period spent in that institution. Local authorities, in consultation with disabled persons' non-governmental organisations, approve lists of skills and occupations for which disabled persons must be given preference, establish employment standards for them in undertakings, institutions and other organisations, so that they constitute at least 5% of the total payroll, and create specialist undertakings and departments to employ disabled persons.

Reference should also be made to a draft strategy on the social protection of persons with disabilities, which is currently being prepared."

237. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 15§3 – Integration and participation of persons with disabilities in the life of the Community

RSC 15§3 BELGIUM

"The Committee concludes that the situation in Belgium is not in conformity with Article 15§3 of the Revised Charter on the ground that there is no general anti-discrimination legislation protecting persons with disabilities explicitly covering the fields of housing, transport, telecommunications and cultural and leisure activities".

238. The representative of Belgium provided the following information in writing :

"The Anti-Discrimination Act of 25 February 2003, which also amends the legislation of 15 February 1993 establishing an equal opportunities and anti-racism centre, amended by the acts of 9 July 2004 and 20 July 2006, was repealed by the Act of 10 May 2007 to combat certain forms of discrimination (MB. 30.05.2007).

Under section 2§3 of the 2003 legislation, failure to make reasonable accommodation for disabled persons constitutes discrimination under this act. Sections 6 ff provide for criminal sanctions.

On 17 July 2007, a protocol on behalf of persons with disabilities was agreed by the Federal government, the Flemish Community, the French Community, the German-speaking Community, the Walloon Region, Brussels-Capital Region, the Joint Community Commission and the French Community Commission. This is concerned with securing reasonable accommodation under the anti-discrimination legislation of 25 February 2003 (MB.20.09.2007).

Under the protocol, the federal government, communities and regions, which share responsibility for persons with disabilities, are committed to securing the social and occupational inclusion of those concerned.
One of the means of achieving such social inclusion is to make reasonable accommodation for people with disabilities, as specified in Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation and the Anti-Discrimination Act of 25 February 2003, which also amends the legislation of 15 February 1993 establishing an equal opportunities and anti-racism centre, the Flemish Community decree of 8 May 2002 on proportional participation in the labour market, the Brussels-Capital Region order of 26 June 2003 on the joint management of the region's labour market, the German-speaking Community decree of 17 May 2004 on equal treatment in the labour market, the French Community decree of 19 May 2004 on the application of the equal treatment principle, and the Walloon Region decree of 27 May 2004 on equal treatment in employment and vocational training.
The protocol gives the federal government, communities and regions criteria for determining what constitute reasonable accommodation aimed at securing the social and occupational inclusion of persons with disabilities.
Because of the division of responsibilities in this area, co-operation is essential to ensure that policy is properly implemented and to avoid conflicting requirements and interpretations in the legal provisions of the different tiers of authority.
The protocol will come into force in each party once its government has approved it.
- Section 14 of the Act of 10 May 2007 to combat certain forms of discrimination (MB. 30.05.2007), which repeals the Act of 25 February 2003, prohibits all forms of discrimination in the areas that fall within its scope.
This includes direct and indirect discrimination, incitement to discrimination, harassment and refusal to make reasonable accommodation on behalf of disabled persons.
Section 5 of the 10 May 2007 lists the areas that fall within its scope and specifies that it does not apply to subjects within community or regional jurisdiction.
[…]
Under Section 5, the 2007 Act therefore applies, other than for subjects falling within community or regional jurisdiction, to all persons in both the public and private sectors, including public bodies, concerned with public access to goods and services and the supply of those goods and services.
The Act provides for criminal sanctions.
[…]
It can therefore be inferred that the May 2007 Act applies to discrimination in the form of refusal to make reasonable accommodation on behalf of persons with disabilities and would also apply to discrimination in awarding tenancies based on disability, which is a federal responsibility.
The representative of Belgium also provided additional written background information on the situation relating to Article 15§3 in her country."

239. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 15§3 ESTONIA

"The Committee concludes that the situation in Estonia is not in conformity with Article 15§3 of the Revised Charter on the ground that there is no anti-discrimination legislation for persons with disabilities covering issues such as housing, transport, telecommunications and cultural and leisure activities".

240. The representative of Estonia provided the following information in writing :

"Conclusions 2007" made with regard to Estonia have been discussed at the management meeting of the Ministry of Social Affairs and also in the session of the Social Affairs Committee of the Parliament in order to take the necessary measures.

We shall present the additional information with regard to different Articles as follows:
[…]
Article 15§3 - Integration and participation of persons with disabilities in the life of the Community
The Constitutional Committee of the Riigikogu is working on the draft of the Equal Treatment Act initiated by the Government of the Republic on 30 May 2007, which gives a detailed regulation of the protection given in Section 13 of the Constitution of the Republic of Estonia.
Pursuant to Section 1 of the draft, the purpose of the Act is to guarantee that persons are protected from discrimination on the grounds of nationality (ethnic identity), race, skin colour, religious beliefs or convictions, age, disability or sexual orientation. In order to achieve this goal, the Act stipulates:
1) the principles of equal treatment;
2) the tasks in the implementation and promotion of the principle of equal treatment;
3) resolution of discrimination disputes.
The Act shall apply to every person in respect of:
1) the establishment of the terms and conditions for finding employment, becoming a sole trader and accessing professions, including the establishment of recruitment and selection criteria, and promotion;
2) the conclusion of employment contracts or appointment or selection into office, establishment of working conditions, giving orders, remuneration of work, termination of employment contracts, release from office;
3) professional training, career counselling, retraining or in-service training, acquiring practical work experience;
4) belonging to associations of employees or employers, including professional associations and in granting bonuses by such organisations;
5) receiving social welfare, health care and social security services, including social welfare benefits;
6) education;
7) the availability of goods and services offered to the public, including places of residence.
[…]"

241. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 15§3 FINLAND

"The Committee concludes that the situation in Finland is not in conformity with Article 15§3 of the Revised Charter on the ground that there is no anti-discrimination legislation for persons with disabilities".

242. The representative of Finland provided the following information in writing :

"Legislation and policy concerning the people with disabilities
Finnish disability policy guarantees the human rights and non-discrimination. This is the starting point for disability policy. Finnish society is meant for all. The equal treatment of people with disabilities and support for their life skills, working and functional capacity and independent living are central objectives of the present Government of Finland. The Finnish disability policy is based on the following three main principles:
1) The right of people with disabilities to equality. The principle of non-discrimination of people with disabilities is enshrined in the Constitution.
2) The right of people with disabilities to inclusion. Finland is promoting a society that is open to all. The condition for realisation of the inclusion of people with disabilities is positive attitudes, taking into their needs, identification of barriers that restrict their inclusion, and elimination and anticipation of such barriers.
3) The right of people with disabilities to necessary services and supportive measures. Services and supportive measures are positive special treatment for ensuring equality.

Human rights are universal and persons with disabilities are entitled to the same level of implementation of human rights as other people. The equality and non-discrimination of people with disabilities is guaranteed in the Constitution Act. The Non-Discrimination Act prohibits discrimination also on the basis of health and disability. Both direct and indirect discrimination is prohibited, and so is harassment and an instruction or order to discriminate. Also in many laws there are provisions concerning the issues of people with disabilities, for example
All actors in society are responsible for developing society so that the needs of people with different functioning capacities are taken into account in planning, decision -making and implementation.

Universality of services
In Finland social welfare and health care along with the Finnish disability policy are based on the principle of universal access to general services. If these services are not sufficient or suitable, special services can be arranged for persons with disabilities for example by virtue of the Services and Assistance for the Disabled Act (380/1987; below the Services Act) and the Act on Special Care for Mentally Handicapped Persons (519/1977; below the Special Care Act).

Services Act
According to Section 1 of the Services Act, the purpose of the act is to promote the equality and equal opportunities of persons with disabilities. Section 2 of the Act defines a person with disabilities as someone who, due to injury or illness, has special long-term difficulties to manage normal everyday functions. The municipality must make sure that the general services it provides are suitable also for persons with disabilities. According to Section 1 of the Services and Assistance for the Disabled Decree, the municipality must prevent and eradicate barriers that restrict the functional opportunities of persons with disabilities in order to ensure them equal participation in the society. The services and assistance must be arranged so that they enhance the independent coping of persons with disabilities.
In accordance with the Services Act, the municipality is obligated to organise transportation services, interpreter services, day activities, and sheltered housing for persons with severe disabilities as well as to reimburse any housing conversions and necessary equipment and appliances. In addition, the municipality is obligated to reimburse for the costs of a personal assistant, equipment and appliances necessary for independent coping, extraordinary clothing expenses, extra expenses due to special diet as well as for the costs of rehabilitation counselling and adjustment training.
A reform of the Services Act and the Special Care Act is underway. The objective is to improve personal assistance services and to diversity the service options available. Personal assistance services could consist of economic assistance and/or services for persons with severe disabilities. Another objective is to ordain that the Services Act overrides the Special Care Act. The drafting of the legislative reform takes into consideration the obligations laid down in the UN Convention on the Rights of Persons with Disabilities, including Article 19 on living independently and being included in the community.
The services for persons using sign language are reinforced by transferring the organisation responsibility to the Social Insurance Institution of Finland as of 2010. The objective of this centralisation is to reinforce equality among the service users, create uniform practices, increase special expertise, create a comprehensive monitoring system, and promote systematic development in order to ensure the realisation of the linguistic and inclusion rights laid down in the Constitution Act.

Other legislation
The Act on the Status and Rights of Patients and the Act on the Status and Rights of Social Welfare Clients both include provisions on the right to good care and social welfare without discrimination.
It is also ordained that the construction and transport industries must take persons with disabilities into consideration. Accessibility is to the benefit of all people.

A reform of the Non-Discrimination Act is underway. The committee preparing the reform has also been commissioned to assess the status, tasks and jurisdiction of the existing special ombudsmen. The mandate of the committee on the Non-Discrimination Act draws to a close in September 2009.

Service-oriented model

The basic idea behind the service-oriented model, which is typical for the Nordic countries, is that services and assistance are universal, which enables to bridge the gaps between population groups. The authorities are obligated to deliver welfare services for all citizens. Moreover, the authorities have the obligation to adopt positive measures to improve the status of persons with disabilities. In this model, the taxes paid to the state form the foundation of the service system. Private services complement the welfare services financed with the state tax revenue.

With regard to legislation concerning persons with disabilities, the service-oriented model is primarily individual preventive and redistributive in the sense that, with the services and assistance guaranteed by the legislation, persons with disabilities re able to take part in the society's functions. Persons with disabilities are in a manner of speaking equipped so that they can cope in the society where there are different kinds of barriers that without the services and assistance would restrict their participation or make it impossible.

Examples of legislative solutions within the service-oriented model are the Finnish and Swedish acts on services and assistance for persons with disabilities.

Model oriented on discrimination ban

The starting point for the model oriented on discrimination ban is that the equal realisation of the rights of persons with disabilities is safeguarded with legislation banning discrimination in the society. The focus is more on legislation that bans discrimination and regulates the society and its functions than on legislation regulating services and assistance. Hence, the model can be described to be societal preventive and less redistributive. The model delegates more responsibility to individual actors. Accordingly, legislation should safeguard non-discrimination by securing comprehensive accessibility. Comprehensive here means that in addition to an accessible environment, also the functions of the society must be accessible for all. At the legislative level this means that for example legislation on employment measures or education must be accessible in the sense that it takes into account the needs of persons with disabilities and thus ensures that no specific services or assistance is needed.

An example of legislative solutions within the discrimination-ban-oriented model is the United Kingdom Disability Discrimination Act that in the United Kingdom and Northern Ireland forms the basis of the legislation concerning persons with disabilities.

UN Convention on the Rights of Persons with Disabilities

Finland signed the Convention on the Rights of Persons with Disabilities and its Optional Protocol on 30 March 2007. The national legislation in Finland is already to a large extent compliant with the Convention.

The Ministry of Social Affairs and Health is preparing the following legislative amendments pertaining to the ratification of the Convention: The amendment required by Article 14 (liberty and security of persons) to the Special Care Act regarding the use of force against persons in special care will be replaced with revised legislation on the grounds for restrictions on fundamental rights. Also Article 18 (liberty of movement and nationality) and Article 19 (living independently and being included in the community) require amendments to (1) Section 3 of the Municipality of Residence Act (the restriction to choose one's municipality of residence will be abolished and costs will be distributed between the municipalities) and (2) Section 13 of the Social Welfare Act (social services must be provided also for persons moving into the municipality and not only for municipal residents). The development of the system for the division of costs between municipalities in connection with the amendment to the Municipality of Residence Act will be carried out with the reformed system of central government transfers

taking effect in 2010. This reform is closely linked to the restructuring of municipalities and services currently underway in Finland.

Conclusions
The Finnish Government would also like to highlight the fact that even though different countries have adopted different legislative approaches, such as the service-oriented model or the discrimination ban oriented model, the objectives and results are, nevertheless, similar, that is, the ban on discrimination against persons with disabilities and the right to equal treatment. ."

243. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 15§3 FRANCE

"The Committee concludes that the situation in France is not in conformity with Article 15§3 of the Revised Charter on the ground that during the reference period the right of persons with disabilities to protection against discrimination in housing, transport, telecommunications and cultural and leisure activities was not effectively guaranteed".

244. The representative of France referred to written information already provided in the 2007 report, and added that there was no new information.

245. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 15§3 ITALY

"The Committee concludes that the situation in Italy was not in conformity with Article 15§3 of the Revised Charter during the reference period on the ground that there was no sufficient legislation prohibiting discrimination on grounds of disability covering housing, transport telecommunications, cultural and leisure activities".

246. The representative of Italy referred to her intervention with regard to Article 15§1 (see above) highlighting that new legislation entered into force and that the ECSR was expected to assess it in its Conclusions 2008.

247. The Committee welcomed the adoption of the new anti-discrimination legislation in Italy and decided to await the ECSR's next assessment on Article 15§3 of the Revised Charter.

RSC 15§3 NORWAY

"The Committee concludes that the situation in Norway is not in conformity with Article 15§3 of the Revised Charter on the grounds that during the reference period there was no legislation prohibiting discrimination on grounds of disability covering housing, transport, telecommunications, cultural and leisure activities".

248. The representative of Norway provided the following information in writing :

"A proposal for an Act on Prohibition against Discrimination on the basis of Disability (Discrimination an Accessibility Act) was presented in 2005 by a Committee appointed by the Government. The proposal is the outcome of NOU 2001:22 "From User to Citizen A strategy for dismantling of disabling barriers". The proposed act has been sent for public hearing to all parties concerned. The Ministry of Children and Equality Affairs, responsible for the coordination of disability issues has recently submitted a proposal (Ot.prp.nr. 44 (2007-2008) for a new Act on prohibition against discrimination on the basis of disability to the Parliament.
The proposed Act shall apply to all areas of the society. All direct and indirect discrimination on the basis of disability will be prohibited. The proposed Act contains a general obligation

for public undertakings and private undertakings that offer goods and services to the general public, to be accessible for all. The proposed statute will also contain an individual obligation for employers, schools and other educational institutions and municipal authorities regarding individual accommodation in certain areas. The proposals concerning universal design in buildings are very ambitious. The proposal will be followed up in the revised Planning and Building Act. The Equality and Anti-Discrimination Ombud (independent body) will be responsible for the follow up of the Act. A more detailed presentation of the new Act on prohibition against discrimination on the basis of disability will be done in the next report.
In order to follow up the Act, the Government is now working on a new Action plan for increased accessibility. Key areas as ICT, buildings and transport will be covered by the new action plan. The plan will be presented next winter.
The Commission that is asked to propose a comprehensive anti-discrimination legislation in Norwegian legislation protection against discrimination on the basis of personal characteristics or opinions is dispersed. Different Acts prohibits discrimination on the basis of gender, ethnic origin, national origin, descent, color, language, religion, ethical and cultural orientation, political views, membership of a trade union, sexual orientation, disability or age, as well as discrimination of employees who work part-time or on a temporary basis. The protection against discrimination varies depending on the basis of the discrimination. The Commission shall submit a proposal for a compiled and more comprehensive anti-discrimination legislation. The Commission was appointed by the Government 1. June 2007. The Commission shall submit its recommendations within 1. July 2009.
The Governments vision is that persons with disabilities are to have the opportunities, to develop personally, participate in society, and to enjoy life in the same way as other citizens.
Users experience sometimes among others too little information, poor service, that errors are made in service provision, that services are difficult to get hold of, that services are poorly organized and coordinated and that services are not very flexible.
User participation can contribute to the services being better adapted to the users wishes and needs. In general, the Government wants an open public administration and user participation is part of it.
In order to promote user participation the Government gives a general operating subsidy to organisations representing persons with disabilities. A total of NOK 138,5 million was granted for this purpose in 2007. The Government has established a State Council on Disability that is an advisory body for the Government on disability issues. Members of this body are among others organisations representing persons with disabilities. On county level and local level there are also similar councils. They were made mandatory September 10th, 2007.There are also user participation in the various sector areas, e.g. in the education sector and in the health sector.
There are an annual meeting between Funksjonshemmedes Fellesorganisasjon (an umbrella organization representing 69 member organizations) and the different Ministries working with issues that concern persons with disabilities. This meeting is headed by the Minister responsible for coordinating disability issues in the Government. Here budget and other issues are discussed. A report from this meeting is sent to the Parliament. The different Ministries also have meetings on a bilateral basis with the organizations representing various groups of disabled persons.
The different sectors eg. housing and technical aids have developed a close dialog with organizations, which often contributes in planning and participation in various projects. Individuals are also consulted in order to secure wishes and needs.

Forms of economic assistance empowering persons with disabilities
The Norwegian government's policies in the field of technical aid rest on the fundamental value that people with disabilities are full citizens of the society and shall have the opportunity to perceive themselves as such. The aim of the government is to place the individual citizen in the centre when it comes to policy planning, implementation and service delivery. This aim requires the realization of such values as:

• Non-discrimination (The adaptation of the public sphere so that everyone, based on their own abilities, has an equal opportunity to acquire the same living conditions and enjoy and discharge their rights and responsibilities as members of civil society).
• Self-determination (The freedom of the individual and equal opportunities to determine one's own life direction and be respected for one's choices).
• Active participation (Work towards a society in which everyone has the opportunity to participate actively based on their abilities).
• An independent life (Having a life that is lived at a place of your own choice.)
The government has an understanding of the "disability concept" as something that "occurs when a gap exists between the capabilities of the individual and the functional requirements of his or her surroundings" (Government White Paper 40 (2002-2003). In line with such a definition a disabled person encounters obstacles created by society.
Assistive devices, accessible environments, technical measures or personal assistance can all help lessen society's demands in terms of function, thereby allowing people to live more independent lives. The more accessible the surroundings are the less people need special solutions. The effects of disabilities can also be reduced both by making people more capable and doing something about society's demands. People can be made more capable by giving them training, education, care and support."."

249. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 17§1 – Assistance, education and training

RSC 17§1 ARMENIA

"The Committee concludes that the situation in Armenia is not in conformity with Article 17§1 of the Revised Charter on the ground that corporal punishment of children within the family and alternative child care is not prohibited."

250. The representative of Armenia provided the following information in writing :

"Following the Committee's non-compliance finding concerning Armenia's 2006 report on Article 17§1 of the revised Charter, we wish to inform you that violence against children is a widespread and continuing problem. It may take the form of physical, sexual, emotional or psychological violence and neglect.
Violence against children is likely to have serious consequences for their physical and psychological health and their full personal development and fulfilment.
It is also a violation of their freedoms as specified in the United Nations Convention on the Rights of the Child. Article 19 of the Convention requires states to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
As a signatory to the Convention, Armenia considers that violence against children is unacceptable and subscribes to the principle that children are entitled to a happy, healthy and fulfilling childhood.
Violence represents a threat to individuals' physical and moral integrity, and can take physical, sexual, emotional or psychological forms. Physical violence constitutes a premeditated physical assault on a child or young person.
Protecting children is one of the major responsibilities of the Armenian Republic. Section 9 of the Armenian law on the rights of the child states that all children are entitled to protection against all forms of violence, be it physical, psychological or other.
It is unlawful for anyone, including parents or other legal representatives, to assault children or inflict punishments likely to infringe their dignity or cause similar detriment.

Violations of children's legitimate rights and interests are punishable offences under Armenian law.
The state and its various bodies must take steps to protect children against all violence, exploitation, participation in criminal acts, including the use, manufacture or trafficking of drugs, begging, prostitution, games of chance and gambling and any other violations of their legitimate rights and interests.
Article 1 of the Armenian Family Code – "fundamental principles of family legislation" – states that the state shall give highest priority to protecting the rights of the child, based on the principle that children should be raised within their families.
Article 43 of the Code is specifically concerned with children's right to protection. Sub-paragraph 2 grants the right to protection against abuse by parents or legal representatives, and specifies that children are free to request official protection in the event of failure to respect their rights and interests, for example if one or both parents fail to carry out, or do not carry out correctly, their responsibilities for their children's upbringing or abuse their parental powers.
Officials and members of the public who are aware of ill-treatment, threats to children's life or health or violations of their rights or interests must report the situation to the relevant children's authorities. If they receive such reports, the authorities must take steps to protect those children's rights and interests.
Article 58 of the Family Code authorises the removal of children from one or both parents if there is an immediate threat to their life or health. Articles 59-60 lay down the procedure for restricting and withdrawing parental rights, which includes cases where one or both parents assault their children, display physical or psychological violence towards them or threaten their sexual integrity.
The Armenian criminal code, which came into force on 17 April 2003, makes all forms of violence against children a criminal offence. Chapter 20 is concerned with offences against the interests of the child and the family.
In particular, article 165 is concerned with the involvement of children in the commission of offences. The third part of this article states that where circumstances provided for in the article are achieved through force or the threat of violence, those responsible shall be liable to imprisonment of two to seven years.
Under article 166, the involvement of children in criminal offences is punishable by fines of 50 to 150 times the minimum wage, or detention of 1 to 3 months or imprisonment of up to 5 years.
The same offence, committed by the parents, paediatrician or other persons entrusted with those children's care and accompanied by violence or threats, is punishable by up to 6 years' imprisonment.
Article 170 of the criminal code, on failure to exercise responsibilities connected with children's upbringing, stipulates that:
1. Failure of the parents, paediatrician, the staff of health, care or training institutions or any other persons to whom children's care is entrusted to carry out, or to carry out correctly, their responsibilities for those children's upbringing is punishable by a fine of 50 to 100 times the minimum wage, or imprisonment of up to 2 years or withdrawal of the right to hold certain positions for up to 3 years or greater.
2. The same offence accompanied by an assault on the child is punishable by a fine of 100 to 200 times the minimum wage, or imprisonment of up to 3 years or greater.
Trafficking in children (article 168)
Failure to carry out, or to carry out correctly, responsibilities for protecting children's health or safety (article 171)
Wilful failure to care for children (article 173)
Sexual assault of minors (article 138)
Violence of a sexual nature against minors (article 139)
Perverted or obscene acts (article 142). Perverted, obscene or otherwise vicious acts against children aged under 16, accompanied by threats or violence, are punishable by up to 3 years' imprisonment.

The perpetrators of violence against children, including parents, are punishable under the aforementioned articles, and any other provisions to that effect, in accordance with the law or established procedure.
The relevant articles of the Armenian criminal code and the associated sanctions reflect the various forms of violence against children, with particular emphasis on physical violence, including corporal punishment and bodily harm suffered, which are punished with all the severity of the law.
Special attention is paid to corporal punishment in the family and in child care establishments and other forms of child care.
Government decision 1324-N of 5 August 2004 lays down minimum social standards for the care and upbringing of children in orphanages. Paragraph 6 of rule no. 2, on the protection of children's rights, states that under Armenian legislation, orphanages and homes of the care and protection of children shall protect children against:
- physical and psychological violence, including sexual exploitation and perversion;
- cruelty;
- criminal offences;
- lack of attention and injustice;
- products that pose a threat to health and dangerous living conditions.
It should be noted that under existing rules, all forms of corporal punishment of children are strictly prohibited in the aforementioned care institutions and the management of these institutions and their supervisory authorities are responsible for ensuring that the corresponding rules are properly applied.
The ministry of labour and social affairs is fully aware of the special importance of protecting children against physical, psychological and any other forms of violence by their parents or legal representatives, and of the fact that the problem must be dealt with rapidly. It has therefore prepared a draft government policy document on preventing violence against and neglect of children, which will be submitted for government approval in 2008.
In 2008, under the government's programme of measures to deal with the problem, policy on preventing and eliminating violence against children will focus on:
- legal reforms
- establishing services to assist children who have suffered violence and systems for preventing the problem.
The government's policy document will also present research data on the extent of such violence, official statistics and analysis, and details of joint activities of government and non-governmental organisations to deal with this fundamental problem.
The new policy is therefore concerned with identifying and bringing into the public realm the problem of violence, and the ban on physical violence and corporal punishment of children in families, institutions and other forms of care for children.
All the changes discussed are intended to secure the elimination of any failures in law and practice to comply with rules laid down in the Charter.
Non-governmental organisations in Armenia such as the "maternity foundation" and the "centre for the protection of women's rights" are particularly concerned with protecting women and children against neglect, violence and abuse."

251. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 17§1 BELGIUM

"The Committee concludes that the situation in Belgium is not in conformity with Article 17§1 of the Revised Charter on the ground that domestic law does not penalize all form of violence against children in the family".

252. The representative of Belgium informed that:
(1) As to criminal law regarding corporal punishment of children, the Minister of Justice will shortly be sending a circular, via the college of chief prosecutors, to all the courts in the country, advising them that, where appropriate, corporal punishment may be liable to

prosecution and penalties under Articles 398ff of the Criminal Code, which cover assault, and Article 417quinquies, which covers degrading treatment.
She also pointed out that it should be noted that Article 425 of the Criminal Code explicitly makes it an offence to deprive minors of nourishment and care, such that their health is put at risk.
(2) As to civil law, the corporal punishment of children is implicitly prohibited under Article 22bis of the Constitution, which states that all children are entitled to respect for their moral, physical, psychological and sexual integrity, and under Article 371 of the Civil Code, which forms part of Part IX, on parental authority, and which states that children and their mothers and fathers have a duty of mutual respect at all ages.
She further explained that where these provisions are breached, the children's court may, in the child's interest and under Article 387bis of the Civil Code, order or modify any provisions relating to parental authority.

253. Moreover, she indicated that Parliament has made a number of attempts in recent years to amend Belgian law, and more specifically the Civil Code, to grant children the right to a non-violent upbringing and to prohibit the corporal punishment of and other forms of psychological or physical violence against children. The most recent draft legislation on this subject was tabled in the Chamber of Representatives on 15 July 2008, and the enactment procedure is under way.

254. The Committee took note of the positive developments announced and decided to await the ECSR's next assessment on Article 17§1 of the Revised Charter.

RSC 17§1 ITALY
"The Committee concludes that the situation in Italy is not in conformity with Article 17§1 of the Revised Charter on the ground that the number of Roma children in education is too low".

255. The representative of Italy provided the following information in writing :

> "From the standpoint of the education of young persons of foreign origin, Roma, Sinti and other travellers are a particular focus of Italian government policy. To expand the numbers of young Roma attending school and in accordance with the principle of multiculturalism, the education ministry has initiated a number of training activities aimed specifically at teachers and cultural intermediaries.
> A protocol of agreement was signed on 22 June 2005 by the ministry of education, universities and research and the Opera Nomadi association to examine the nature of school take-up and abandonment among Roma, Sinti and traveller children.
> The protocol provided for initiatives to encourage these young people to enter and integrate into school and for training activities aimed specifically at teachers and other educational staff to offer them a better knowledge and understanding of Roma language and culture, in collaboration with regional education offices and schools. In conjunction with regional education offices, the regions, local bodies and Opera Nomadi, the education ministry draws up training programmes for teachers and other educational staff aimed at ensuring a stable and continuing link between these children's cultures of origin and school.
> Opera Nomadi is also involved in:
> - making Roma, Sinti and traveller communities more aware of the importance of education and providing them with information on the requirements of compulsory schooling;
> - drawing up agreements with regional education offices on the admission and integration of young persons, taking into account specific local circumstances;
> - taking part in training for Roma and Sinti linguistic and cultural mediators, organised by local offices, in agreement with regional education offices, in response to the needs expressed by schools and families for reception facilities.

It is not currently possible to answer the Committee's question about the number of Roma children of school age as the information is not available. It is possible though to supply information on the number of Roma pupils regularly attending school in the academic years 2004-2005, 2005-2006 and 2006-2007. Data for the previous academic years are not currently available."

256. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 18§1 – Applying existing regulations in a spirit of liberality

RSC 18§1 BELGIUM

"The Committee concludes that the situation in Belgium is not in conformity with Article 18§1 of the Revised Charter as it has not been established that the rules governing the right to engage in a gainful occupation are applied in a spirit of liberality."

257. The representative of Belgium said that there were statistics on the number of permits issued and refused, but not on the number of applications.

258. The Committee invited the Government of Belgium to supply all relevant information in the next report and decided to await the ECSR's next assessment.

RSC 18§1 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 18§1 of the Revised Charter as it has not been established that the rules governing the right to engage in a gainful occupation are applied in a spirit of liberality."

259. The representative of Italy provided the following information in writing :

"In response to the Committee's comments, the Italian government argues that its procedures concerning the recruitment of foreign workers continue to comply with constitutional principles governing working arrangements and the freedom to emigrate.
In particular, it has had to take account of the practical need to balance the supply of and demand for labour and establish a system to regulate migration movements through co-operation between institutions in the interests of security and transparency.
Once foreign workers from outside the Community have met all the conditions, already described in the last report, for lawful residence in Italy, they are entitled to undertake any employed or self-employed non-casual activity, which may be industrial, professional, craft or commercial, on permanent, fixed-term or seasonal contracts. They may also establish companies or partnerships and accept responsibilities in the governing bodies of companies.
The government reports that steps are being taken to simplify the procedures governing entries for work purposes in 2007/2008. Under these, employers are able to present applications for work permits entirely by computer, with applications being dealt with in order and priority being given to countries that have co-operation agreements with Italy."

260. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 18§2– Simplifying existing formalities and reducing dues and taxes

RSC 18§2 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 18§2 of the Revised Charter because the formalities for granting residence permits to self-employed workers have not been simplified."

261. The representative of Italy said that new legislation passed in December 2006 simplified the procedures for granting and renewing work permits, including those for the self-employed. It was now also possible to keep check of progress of the procedure on the Internet. More detailed information would be provided in the next report.

262. The Committee noted the positive developments in Italy and decided to await the ECSR's next assessment under Article 18§2 of the revised Charter.

RSC 18§2 IRELAND

"The Committee concludes that the situation in Ireland is not in conformity with Article 18§2 of the Revised Charter, on the grounds that the existing formalities in respect of the issuing and renewal of work permits have not been simplified."

263. The representative of Ireland informed the Secretariat that he was not in a position to submit written information concerning all cases of non conformity for the first time relating to Conclusions 2007, because these cases are currently being examined by inter-departmental committees. Written information concerning all cases will be addressed in next reports on the relevant provisions.

Article 18§3 – Liberalising regulations

RSC 18§3 IRELAND

"The Committee concludes that the situation in Ireland is not in conformity with Article 18§3 of the Revised Charter, due to the absence of measures to liberalise the regulations governing the employment of foreign workers."

264. The representative of Ireland said that the Immigration Act had been amended in 2006. New draft legislation was currently under consideration. The legal provisions governing length of residence were currently being examined to see whether they should be modified. However, certain aspects relating to the procedure, in particular the need for employers to request work permits, or to the right of those concerned to change jobs would remain unaltered. More detail information would be supplied in the next report.

265. In answer to the Chair, the representative of Ireland said that the requirement for those wishing to work in Ireland as self-employed to have a capital of € 300 000 was enforced, apart from a few exceptions. This condition was mainly concerned with the exercise of liberal professions.

266. The representative of Lithuania thought that the Committee should note the positive progress that had been made but invite the government to bring the situation into conformity with Article 18§3 of the Charter.

267. In answer to the representative of France, the representative of Ireland said that the amendments to the Immigration Act mainly concerned certain specific occupations to which the general scheme did not apply.

268. The representative of Belgium said that the situation in Ireland had not been compatible with the Charter since 1973 and that the only development reported concerned the recipients of work permits.

269. The Committee invited the Government of Ireland to bring the situation into conformity with Article 18§3 of the revised Charter.

RSC Article 21 – Right to information and consultation

RSC 21 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 21 of the Revised Charter on the ground that it has not been established that the rules on the information and consultation of workers applicable during the reference period cover the great majority of the workers concerned."

270. The representative of Italy provided the following information in writing :

"To supplement the information in the last report, following a joint opinion issued by the social partners, Legislative Decree 25 of 6 February 2007 transposed Directive 2002/14/EC establishing a general framework for informing and consulting employees into Italian law.
With regard to the current industrial relations system in Italy, article 1 of the decree states that the arrangements for supplying information and for consultation are to be established in collective agreements, with a view to ensuring that the proposed measures are effective by balancing the interests of employers and employees and securing co-operation between employers and employee representatives, in accordance with their mutual rights and obligations. The decree applies to all undertakings in Italy, public and private, involved in an economic activity, whether or not for the purpose of making a profit. Employees in every productive sector, public or private, whether or not profit-making, shall be entitled to be informed and consulted.
In accordance with the sectoral regulations in force and the general provisions of the legislative decree, sectoral collective agreements can be drawn up to make the machinery established to secure the transversal application of the principles of information and consultation more effective and more consistent with the realities of the employment situation.
Under article 4, the practical arrangements for informing and consulting employees are left to collective agreements, with specific safeguard clauses for collective agreements already in place when the decree was signed. The legislative decree draws on the principles laid down in the directive and specifies what should be covered by the information and consultation:
a. recent and likely changes in the activities of the undertaking and its financial situation;
b. the likely situation, structure and development of employment in the undertaking, and any anticipatory measures under consideration, particularly where they pose a threat to jobs;
c. business decisions likely to lead to significant changes in the organisation of work or employment contracts.
Information should be supplied at an appropriate time and in a suitable form to enable employee representatives to give it adequate consideration and if necessary make proper preparations for consultations.
Consultations should be conducted:
a. at an appropriate time and in a suitable form;
b. at a relevant level of management and representation, having regard to the subject under discussion;
c. on the basis of information supplied by the employer to the employee representatives authorised to consider such issues and of any opinions submitted by these representatives, which they are empowered to draw up;

d. in such a way as to enable the employee representatives to meet the employer and receive a reasoned response to any proposals they might choose to make;
e. with a view to reaching agreement on the employers' decisions.
The decree has established a general set of arrangements that now provides not just for information on but also for consultations about changes in undertakings' present and future employment situation and prospects.
Proposals that would result in major changes in work organisation or have significant repercussions on employment agreements are another subject of information and consultation of a transversal nature that does not simply concern individual problems.
The fundamental principle is that consultations take place in any negotiations to reach agreement on an employer's decisions.
When adopting the Community directive, Italy has opted to apply it only to undertakings with at least 50 employees. The general criterion for determining whether the minimum number applies is the weighted monthly average number of persons employed in the last two years on permanent contracts. A lower numerical weighting has also been established for employees on fixed-term contracts lasting more than nine months and for seasonal workers.
The definition of employer is broader than the one in current legislation and includes any individual or legal person undertaking an economic/business activity, whether or not for profit, in accordance with national legislation and collective labour agreements. Employees are considered to include anyone who contributes to the undertaking's activities in exchange for payment and who contributes his or her manual or intellectual services to and under the direction of the employer.
Because the decree breaks new ground, it comes into force after a period of transitional application, which ended on 23 March 2008.
Employee representatives and any experts assisting them are not authorised to disclose to employees or third parties information that the employer has expressly passed on to them on a confidential basis, in the legitimate interests of the undertaking. This obligation continues for three years after the expiry of their term of office, irrespective of where they then are. However, employee representatives and any persons assisting them may be authorised to pass on confidential information to employees or third parties bound by an obligation of confidentiality if this is provided for and in accordance with the procedures laid down in national collective agreements. Employee representatives who are in breach of this obligation may incur civil liability and are subject to disciplinary measures specified in the relevant collective agreements.
The national collective agreements also provide for conciliation commissions to hear disputes concerning the nature and confidentiality of information to be supplied and consider any technical, organisational or production requirements necessary to decide whether any information disclosed might cause the undertaking considerable difficulties or damage. The composition and operating procedures of these commissions are laid down in the relevant collective agreements.
In carrying out their duties, employee representatives enjoy the protection and safeguards specified in existing legislation and regulations or in collective agreements.
As required by the directive, the legislative decree provides for machinery to protect the right to information and consultation. Employers who are in breach of the obligation to provide information to and consult their employee representatives are liable to an administrative fine of EUR 3 000.00 to 18 000.00 for each violation. Experts who are in breach of their obligation face an administrative fine of EUR 1 033.00 to 6 198.00.
The provincial labour offices, the decentralised offices of the ministry of labour and social security, are empowered to receive reports of such breaches and impose sanctions. This is in accordance with these bodies' responsibilities for protecting working conditions, as specified in Act 689 of 24 November 1981 and subsequent modifications, and Legislative Decree 124 of 23 April 2004."

271. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 21 NORWAY

"The Committee concludes that the situation in Norway is not in conformity with Article 21 of the Revised Charter on the ground that it has not been established that the existing rules on information and consultation of workers cover the great majority of the workers concerned."

272. The representative of Norway provided the following information in writing :

"As we have mentioned in the fourth report, there are several provisions in the WEA concerning both information and consultation which are relevant according to article 21. The employees are entitled to information and consultation in the events of transfer of ownership of undertakings and collective redundancies. Prior to a dismissal with notice, the employer shall discuss the matter with the employee.

The Committee has asked to what extent the rest of the private sector, other than those who are covered by the LO-NHO agreement, is covered by one kind of collective agreement or another and whether provisions in such other agreements are similar or differ from those of the LO-NHO agreement. In 2004 approximately 55 percent were covered by some sort of collective agreement in the private sector, while the public sector has close to 100 percent coverage. All in all, at least 70 percent of all employees in Norway in 2004 were formally covered by a collective agreement, the largest one being the one between LO and NHO. An updated estimate is that about 250 000 employees are covered by the LO-NHO Basic agreement. There are approximately 600 collective agreements in the private sector, 100 collective agreements in municipal section and four in governmental sector. It has not been possible to closely study each of the collective agreement to see exactly how they differ from the agreement between LO-NHO. However, to our knowledge the other agreements are similar to the one between LO-NHO.

Like mentioned in the fourth report, some workers are covered by a collective agreement even if they are non-union members. This applies to workers at enterprises bound by a collective agreement. Based on case-law and agreement practice these enterprises are obliged to apply the agreement on unorganised employees in the enterprise comprised by the scope of the agreement. Based on a survey from 2004,

77 percent states that they are covered by a collective agreement; this includes the non-union workers. The survey was conducted by Statistic Norway.

In addition to the collective agreements, which cover approximately 77 percent of Norwegian employees, the new Working Environment Act (WEA) came into force 1 January 2006. Chapter 8 in the WEA implements Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002. According to the WEA chapter 8 the employer of an undertaking that regularly employ at least 50 employees shall provide information concerning issues of importance for the employees working conditions, and discuss such issues with the employees' representatives. Statistics from 2004/2005 proves that the cover ratio of collective agreements for undertakings with more than 50 employees is 70 percent, which indicates that around 30 percent of the workers in these undertakings are not covered by a collective agreement. Based on this, we find it safe to assume that several employees will benefit from the new WEA concerning the right to information and consultation.

It has not been possible to find an exact percentage regarding how many employees who are entitled to rights concerning information and consultation based on a collective agreement or WEA chapter 8. However, given the abovementioned legislation in the WEA and the fact that about 77 percent of the workers are covered by a collective agreement, either through membership or through case-law and agreement practice, we find it reasonable to estimate that more than 80 percent of the working population do benefit from these rights.

Further information on the new regulations and their implementation in practice will be provided in the next report."

273. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC Article 22 – Right to take part in the determination and improvement of the working conditions and working environment

RSC 22 ALBANIA

"The Committee concludes that the situation in Albania is not in conformity with Article 22 of the Revised Charter on the ground that employees are not granted an effective right to participate in the decision-making process within the undertaking concerning the matters referred to in Article 22 of the Revised Charter."

274. The representative of Albania provided the following information in writing :

> "The Committee inquires if the collective agreements contain elements for the participation of employees in the decision-taking for the improvement of the working conditions and working environment. Such elements are contained in all the contracts of the first level (as per each branch or sector), which are mainly part of the public sector.
> Regarding the comment presented by the Committee on the failure to respect the collective agreements in practice, especially on the case mentioned above, we clarify that there have been similar cases, especially in the sector of oil industry, which have been solved through mediation.
> Regarding the statement of the Committee on the right of employees to participate in the organisation of social and cultural services as well as other facilities in the workplace, we clarify that the contracts of work both in the public sector such as: education, health, etc and in some large companies in sector such as: power industry, oil industry, telecommunications, etc, contain provisions where the parties commit themselves towards the organisation and development of social and cultural activities.
> Regarding the comment done by the Committee on the involvement of the arbitral / intermediation courts, we clarify that such structures are not in place in Albania yet. We are trying to create specified section for the arbitral intermediation, to the first scale of courts, but this decision will be take with the proposal of the Minister of Justice and approuvement of the President of Albania."

275. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 22 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 22 of the Revised Charter on the ground that it has not been established that the great majority of workers are granted an effective right to participate in the decision-making process within the undertaking concerning the matters referred to in Article 22 of the Revised Charter."

276. The representative of Italy provided the following information in writing :

> "We note the comments in the conclusions relating to Article 22, based on the Italian government's last report.
> We confirm the contents of that report but wish to add certain clarifications.
> Under current legislation, there are no organic arrangements to enable workers to take part in the determination and improvement of their working conditions and working environment. However, Legislative Decree 25/07, which transposes Directive 2002/14/EC establishing a general framework for informing and consulting employees (see under Article 21 for more details), offers all employees a firm basis for participation.
> In Italy, participation largely takes the form of consultation, various obligations to enter into discussion and joint decision-making and co-management procedures at enterprise level. If Legislative Decree 25/07 is correctly applied, this could lead to a new strategy for transversal trade union relations.
> From the historical standpoint of Italian trade unionism, the right of participation has been vested in trade unions acting at enterprise level, via the trade union representative bodies, the RSAs or RSUs.

Within enterprises, therefore, these bodies have legitimate authority to contribute to improving working conditions for all employees.
As well as providing for a more specific set of rules, to be determined by each collective agreement, the aforementioned decree specifies that information and consultation in the work place should be specifically concerned with decisions of the enterprise that could result in substantial changes to the organisation of work and/or employment contracts. According to the recent decree, consultation concerns all forms of comparison, exchanges of opinion and dialogue between employee representatives and the employer, and must enable the former to meet the employer and obtain a reasoned response to any views expressed, with a view to securing agreement on decisions taken by the latter.
As already stated, in the past and prior to the appearance of Legislative Decree 25/07, the rights of participation, in the form of information/consultation procedures concerning decisions that the employer was considering or intending to take, concerned the employer's powers in such areas as collective redundancies, the unemployment fund, safety in the workplace, positive actions, transfer of the enterprise and work placements.
With the introduction of the right to information, employers' powers were limited by certain requirements determined by collective bargaining. Management was required to submit to representative trade unions issues relating to the organisation and decentralisation of production and the firm's business strategy. The right to this information was often backed up by a meeting requirement, sometimes in ad hoc committees, where the representatives of the parties could discuss and jointly consider the information supplied and any likely consequences.
Such procedures were sometimes only concerned with making employee representatives aware of problems faced by the enterprise and informing employers of the views of their employees and their representatives. Occasionally, they could also be used to investigate contractual activities, in the form of a procedimentalizzazione of the employer's powers, that is an additional note in the record of decisions taken by the employer to show that in reaching certain decisions account had been taken of conflicting interests affected by the exercise of that employer's powers.
The aim of this approach was to encourage agreement on how to deal with the enterprise's problems, but the positive outcome of the procedure depended on the readiness and sense of responsibility of the parties.
Certain pilot experiments in Italy have been particularly significant, in terms of the establishment by businesses of ad hoc bodies to manage their participation arrangements. One example is the machinery specified in the mid-1980s in the IRI Protocol, which strengthened employees' right to information and established comprehensive procedures for consulting trade unions on the most important management decisions.
Subsequently, in a 1997 agreement, Electrolux-Zanussi established a complex system of joint committees to discuss different aspects of the firm's activities.
As noted in the last report, under the new system of industrial relations established by the agreement of 23 July 1993 – the inter-confederal agreement signed by the government and the social partners - and that of 27 July 1994, together with subsequent modifications, RSUs (unitary trade union representations) are the sole representatives of signatory trade unions in the undertakings concerned.
RSUs may be constituted by the employees of each productive unit from the trade unions that are the signatories to the collective agreements applicable to that unit.
To ensure that there is a proper link between the trade unions that are signatories to national agreements and the representations of undertakings with delegated contractual powers, two-thirds of the composition of these representations is elected by all the employees and one-third by election or appointment by the signatory organisations to the collective agreements applicable in the productive unit concerned that have presented lists, in proportion to votes received.
The "active" electorate comprises employees of the unit irrespective of whether they are registered trade union members. The "passive" electorate is based on lists presented by all the formally constituted trade unions (thus excluding informal employee groupings) that

accept the rules laid down in the agreement between the CGIL, CISL and UIL (Protocol 93 ff) and by autonomous unions whose lists have secured the votes of at least 5% of employees.
This dual system of legitimation, in which RSUs are elected by all employees and by representative employee organisations, ensures that there is a proper link between the trade unions that are signatories to national agreements and the representations of undertakings with delegated contractual powers, and that the RSUs do represent the will and wishes of employees.
This offers a formal legal arrangement for ensuring that the two levels of negotiation – national and enterprise-based – are fully consistent with each other.
In answer to the question on health and safety representatives, we would again emphasise that under article 18 of Legislative Decree 626/94 and subsequent modifications, in undertakings or production units with more than fifteen employees the individuals concerned represent all employees equally on health and safety matters, even if they have been elected or appointed under the relevant trade union representation umbrella, as defined in collective agreements."

277. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 22 NORWAY

"The Committee concludes that the situation in Norway is not in conformity with Article 22 of the Revised Charter on the ground that it has not been established that the existing rules on participation of workers in the determination and improvement of the working conditions and working environment within the undertaking cover the great majority of the workers concerned."

278. The representative of Norway provided the following information in writing :

"According to the WEA section 6-1, all undertakings are obliged to have at least one safety representative. The number of safety representatives depends on both the size of the undertaking, the nature of the work and working conditions in general. If the undertaking is consisting of several separate departments or if the employees work shifts, at least one safety representative shall be elected for each department or shift team. At undertakings with less than ten employees, the parties may agree in writing upon a different arrangement or agree that the undertaking shall not have a safety representative. The duties of the safety representatives are the following:
Section 6-2. Duties of safety representatives
(1) The safety representative shall safeguard the interests of employees in matters relating to the working environment. The safety representative shall ensure that the undertaking is arranged and maintained, and that the work is performed in such a manner that the safety, health and welfare of the employees are safeguarded in accordance with the provisions of this Act.
(2) The safety representative shall particularly ensure:
a) that employees are not exposed to hazards from machines, technical installations, chemical substances and work processes,
b) that safety devices and personal protective equipment are provided in adequate numbers, that they are readily accessible and in proper condition,
c) that the employees receive the necessary instruction, practice and training,
d) that work is otherwise arranged in such a way that the employees can perform the work in a proper manner with regard to health and safety,
e) that notifications concerning occupational accidents, etc. are made, pursuant to section 5-2.
(3) As soon as a safety representative learns of circumstances that may result in accidents and health hazards, the safety representative shall immediately notify the employees at the location, and if the safety representative is unable to avert the danger himself, he shall bring the matter to the attention of the employer or the employer's representative. When so notified, the employer shall give the safety representative a reply. If no action has been taken

within a reasonable space of time, the safety representative shall notify the Labour Inspection Authority or the working environment committee.
(4) The safety representative shall be consulted during the planning and implementation of measures of significance for the working environment within the representative's safety area, including establishment, exercise and maintenance of the undertaking's systematic health, environment and safety work, cf. section 3-1.
(5) The safety representative shall be informed of all occupational diseases, occupational accidents and near accidents in his or her area, of reports and measurements relating to occupational health and of any faults or defects detected.
(6) The safety representative shall familiarize himself with current safety rules, instructions, orders and recommendations issued by the Labour Inspection Authority or the employer.
(7) The safety representative shall participate in inspections of the undertaking by the Labour Inspection Authority.
(8) The Ministry may by regulation issue further provisions concerning the activities of the safety representatives and concerning the representatives' duty of secrecy. Such provisions may provide that the safety representative shall perform tasks assigned to the working environment committee pursuant to section 7-2 when the undertaking has no such committee. The authority to make decisions pursuant to section 7-2, fourth paragraph, third sentence, and section 7-2, fifth paragraph, may not be vested in the safety representative.
The safety representatives are also given the right to halt work they consider are an immediate danger to the health and life of the employees. The employer are obliged to ensure that the safety representatives receive training which is necessary to perform their given duties in a proper manner, and the employer is also responsible for the costs relating to such training, or other costs associated with their duties.
According to regulations relating to Systematic Health, Environment and Safety
Activities in Enterprises (Internal Control Regulations) section 4, the employer shall ensure that internal control is introduced and performed in the enterprise in collaboration with the employees and their representatives.
Undertakings which regularly employ at least 50 employees are bound to establish a working environment committee on which the employer, the employees and the safety and health personnel are represented. Working environment committees shall also be established in undertakings employing between 20 and 50 employees when required by any of the parties of the undertaking. If indicated by the working conditions, the Labour Inspection Authorities may decide that undertakings with less than 50 employees shall establish a working environment committee.
Based on the abovementioned regulations, the existing rules on participation of workers in the determination and improvement of the working conditions and working environment within the undertaking virtually cover all workers concerned."

279. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 24 – Right to protection in cases of termination of employment

RSC 24 BULGARIA

"The Committee concludes that the situation in Bulgaria is not in conformity with Article 24 of the Revised Charter on the grounds that the compensation for unlawful termination of employment is subject to a maximum of six months' wages."

280. The representative of Bulgaria confirmed that an employee could only receive compensation up to six months' wages in cases of unlawful termination of employment. He indicated, however, that a dismissed person retained some employee rights and that the employer had to pay social security contributions until the courts had adjudicated on the dismissal. The representative stated that the 6 month limit was not arbitrary, and was

linked to the fact that proceedings were very long in Bulgaria. If an employer had to pay compensation for the period of time between dismissal and an eventual reinstatement ordered by the courts, which could be up to 3 years, that would represent too much of a financial burden on an employer. In this respect, he mentioned that a review of the civil procedure code was underway which would hopefully shorten the length of proceedings.

281. The representatives of the Czech Republic, Norway and Poland and the ETUC representative considered that the ceiling of 6 months' wages of compensation that could be awarded in cases of unfair dismissal was a serious shortcoming in Bulgaria. The possibility of voting on a warning was raised, but given the lack of quorum - only 17 delegates were present - this option was not viable.

282. The Committee urged the Government of Bulgaria to take measures to bring the situation into conformity with the Charter, namely be removing the pre-defined upper limit of compensation in cases of termination of employment without a valid reason. Meanwhile it decided to await the ECSR's next assessment.

RSC 24 CYPRUS

"The Committee concludes that the situation in Cyprus is not in conformity with Article 24 of the Revised Charter on the grounds that employees who have not been employed with their employer for a continuous period of 26 weeks are not entitled to protection against dismissal regardless of their qualifications."

283. The representative of Cyprus informed the Committee that a technical committee was working on the modernisation of termination of employment legislation bearing in mind the comments of the ECSR. However, his authorities believed that not granting statutory compensation in cases of termination of employment during a probation period of 26 weeks was in compliance with the Appendix of the Charter, and that, in any event, a person in such cases could have recourse to the civil courts and claim compensation there. The representative asked for clarifications on what was a "reasonable" probation period for the purposes of excluding a worker from the scope of termination of employment legislation.

284. The Secretariat explained that the ECSR had so far only determined that the exclusion from protection against termination of employment of workers on a probationary period of up to 6 months was unacceptable, namely when no distinction was made on the qualifications of the employee. However, it had not yet established what a reasonable probationary period might be. The Secretariat also indicated that this was an issue on which there were dissenting opinions by certain ECSR members, and where a development of the case law could not be discarded.

285. The Committee took note of the information provided and decided to await the ECSR's next assessment.

RSC 24 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 24 of the Revised Charter on the grounds that the categories of workers excluded from the protection against termination of employment are more extensive than those provided for by this provision."

286. The representative of Italy informed the Committee that no changes to the situation had taken place since the last conclusion. She recalled the reasons why under the Italian system some categories of workers were not covered by general legislation on termination of employment. As regards household employees, although they did not fall under general

law, their right to a legal notice period in cases of dismissal was foreseen in specific rules. As to workers undergoing probation, since this period was conceived to check the worker's professional capacity and interest in the job, both the worker and employer could back out from the contract without giving a notice period or payment of compensation.

287. The Committee considered there had been no substantive change to the situation, and urged the Government of Italy to take measures to bring the situation into conformity with the Revised Charter, namely in respect of the exclusion of domestic workers from general legislation on the protection of workers against dismissal. Meanwhile it decided to await the ECSR's next assessment.

Article 26§1 – Right to dignity at work (sexual harassment)

RSC 26§1 MOLDOVA

"The Committee concludes that the situation in Moldova is not in conformity with Article 26§1 of the Revised Charter on the grounds that neither Moldovan legislation nor any other regulatory or administrative measure provides for the necessary preventive and reparatory measures to protect individual workers against sexual harassment."

288. The representative of Moldova said that there had been changes since the last time, in terms of both legislation and prevention. New legislation passed in February 2006 offered employees protection against all sorts of harassment and required employers to prevent such conduct. A 2006-2009 national action plan was also designed to strengthen protection against harassment at work. The government was aware of the importance of proper protection of employees against all forms of harassment, even though this was not yet reflected in the legislation. A working group had been set up to consider possible arrangements for identifying cases of harassment and all other forms of discrimination, and whether it was necessary to amend the existing legislation. More detailed information would be provided in the next report.

289. The Committee noted the positive developments in Moldova and decided to await the ECSR's next assessment under Article 26 of the Revised Charter.

Article 26§2 – Right to dignity at work (moral harassment)

RSC 26§2 ALBANIA

"The Committee concludes that the situation in Albania is not in conformity with Article 26§2 of the Revised Charter because neither Albanian legislation nor any other regulatory or administrative measure provides for the necessary preventive and reparatory means to protect employees effectively against any form of harassment other than sexual harassment and there is no indication in the report of any practical application of the existing laws by public authorities or courts that would provide such protection."

290. The representative of Albania provided the following information in writing :

> "Morale concerns
> 1) Article 32 of the Labour Code on the "Protection of personality" emphasizes that the employer respects and protects the personality of the employee in the relations of work. Also, it is considered an obligation of the employer towards the employee, the prevention of any attitude which touches the dignity of the employee.
> 2) The collective work contracts, in our practice up-to-date, contain all the elements foreseen in the law on the rights and obligations of the parties in those contracts. Under this

point of view, they establish the protection of the dignity of the employee as an obligation of the employer.

Legislation

The Albanian Legislation provides for measures against sexual harassment in the work place. The Labour Code of the Republic of Albania, in its article 32, paragraph 3, offers the definition of sexual harassment in the work place as follows: "sexual harassment shall mean any harassment which damages notably the psychological situation of the employee due to reasons related to sex".

The employer is forbidden to engage in any action which constitutes sexual harassment against the employee and forbids the carrying out of such actions by other employees. The Labour Code qualifies the sexual harassment at workplace as an administrative contravention and the person who commits such contravention is punished by fine up to 50 times his / her salary (Article 202).

The draft law “On gender equity in the society”, which is actually in its stage of consideration by the Albanian Parliament, brings more complete elements regarding sexual at workplace as well as regarding other types of harassment based on gender. This draft law is based on the respective international legislation and particularly in the EU recommendations. This draft law was prepared by a group of legal experts, upon the initiative of the Albanian Government (MLSAEO) and the support by OSCE and UNDP. During the different stages, this draft law was widely consulted amongst the groups of interest, especially regarding the chapter on Relations at Work; the opinion of the respective organisations of employers and employees was particularly taken into account since they are also members of the Equal Opportunities Commission, which was constituted as per the obligation that results from article 200 of the Labour Code and as per Decision of the Council of the Ministers No. 730, dated November 16th, 2003 “On the functioning of the National Labour Council”. The Equal Opportunities Commission was created upon Order No. 1909, dated September 8th, 2006 of the Minister of Labour, Social Affairs and Equal Opportunities, within the National Labour Council; it is headed by the Director of the Directorate of Policies on Equal Opportunities.

This draft law defines sexual harassment at workplace as follows: “Any undesired form of behaviour, either through words or actions, be they physical or symbolic, of a sexual nature, which aims to or brings as a consequence, the infringement of personal dignity, especially when it takes place in a threatening, hostile, humiliating, degrading or offensive environment, shall be considered as sexual harassment and is forbidden”. The provisions of the chapter “On the protection and equal treatment based on gender belonging at in the work relations”, oblige the employer “to take measures to prevent discrimination, harassment and sexual disturbing against the employee”, as well as “to refrain from putting in a unfavourable position or to avoid taking measures of a disciplinary tenure against the employee who objected or complained on discrimination, harassment and sexual disturbing as well as against the employee who testified against acts of discrimination, harassment and sexual disturbing committed by the employer or by other employees”. Furthermore, in article 23 of the draft law, the responsibilities of the employer for the protection of the employee from gender discrimination and particularly from sexual harassment are specified. It is a primary duty of the employer to approve an internal regulation in accordance with this law, where sanctions against such cases shall be foreseen. In cases when the employer comes to know that the employee is undergoing a situation of harassment or sexual harassment, the employer should immediately take all the organizational measures to interrupt the pursuance of such harassment as well as to apply the disciplinary measures or the sanctions foreseen in the regulation. Also, the employer has to make provisions on the rules and the ways of solution of such cases in the collective work contracts.

The draft law has also foreseen the cases of sexual harassment in educational institutions by considering as illegal any harassing behaviour of sexual nature towards a person who is a pupil / student in that institution or a persons who seeks to be accepted as a pupil / student in that institution, by members of teaching staff or other members of staff in that educational institution. It is considered as illegal as well the sexual harassment committed by any pupil or student of an educational institution towards another one of the same institution or towards a member of staff in this institution.

The person who has undergone sexual harassment shall address his / her complain, in written or verbally, to the employer or the head of the educational institution.
Regarding procedures for the solution of disagreements, article 44 of the draft law provides as follows:
1. Any complaint alleging to violation of gender equity as per this law, shall be examined or is decided upon by the administrative bodies, in compliance with the provisions of the Administrative Procedures Code. The administrative bodies shall decide based on the provisions of this law.
2. The person who has suffered discrimination due to gender may present a complaint or a demand before the court to pursue the defence of the rights established in this law in trial.
3. The parties, upon their free choice, when it is the case, may fulfil any mediation or conciliation procedure foreseen by the legislation in power, to address the violations of this law. The completion of such procedures does not remove from the person who submitted the complaint to pursue the case before the administrative body or before the competent court.
4. If the violations is committed by employees of the public administration, the provisions of law "On the extra contractual responsibility of State administration bodies".
5. The non – profitable organizations and the other legal persons, upon consent of the person who complains, may initiate or support legal proceedings on their behalf, as per the provisions of this law.
Article 23 on "Violation" in the chapter on sanctions, provides specifically for the sexual harassment at workplace brings as a consequence disciplinary responsibility. Disciplinary measures are applied while respecting the principles of law on the right to be informed, the right to be heard and the right to complain.
Such violation as considered as administrative contraventions and are punished with fines which vary, in relation to the violations, from 30.000 – 80.000 Leks, also depending on the offender who has committed the violation. Meanwhile, payment for moral damages may be carried out in accordance with the provisions of the Civil Code and the Civil Procedures Code, in power in the Republic of Albania. The violation of provisions which constitute a criminal act is punished as per the provisions of the Penal Code.

Measures taken by the State
- The draft law on Gender Equity in the Society offers a wider protection. To this goal, it offers a specific definition of the sexual harassment at workplace, the procedures of complaints, as well as the sanctions to be applied in such cases.
- The National Strategy on the Gender Equity and against the Domestic Violence, approved through the Decision of the Council of the Ministers No. 913, dated December 19th, 2007, even though not specifically focussing on the sexual harassment at workplace, foresees in its Plan of Action on the measures to be taken during the period 2008-2009, the completion of training sessions through the country with groups of interest and local administration on the rights of women and girls and the respective knowledge of the domestic and international legislation. Part of it is also the training on sexual harassment at workplace.
- The Directorate of Policies on Equal Opportunities, in the framework of the approximation of legislation and the awareness increase amongst the population, has prepared and distributed in institutions and groups of interest a compilation of all international acts on gender equity, amongst which, also acts relating specifically with sexual harassment.
- In the framework of the Stabilisation and Association Agreement, the Directorate of Policies on Equal Opportunities has applied for funds for organising a training workshop on the methods of carrying out a survey at national level on the rate of sexual harassment at workplace. This initiative is taken due to the fact that the sexual harassment, even though a phenomenon which is present at workplace, remains widely unreported, except for few cases which have become of public domain in the media. We have not had any reply to our application yet.
- The process for the setting up of a working group with experts who will prepare the respective bylaws of the Law "On gender equity in the society" has just started. This package

of bylaws will also include the drafting of legal acts related to discrimination, harassment and sexual harassment at workplace.

- As per the obligation set by article 200 of the Labour Code, and the Decision of the Council of the Ministers No. 730, dated November 16th, 2003 "On the functioning of the National Labour Council", as well as upon Order No. 1909, dated September 8th, 2006 of the Minister of Labour, Social Affairs and Equal Opportunities, the Equal Opportunities Commission was created within the National Labour Council; it is headed by the Director of the Directorate of Policies on Equal Opportunities. This Commission is composed of members of the Ministry, and the organisations of employers and employees. It has considered the draft law "On gender equity in the society". This draft has been given high credit by these organisations especially on the part regarding relations at work. They have expressed their commitment for further cooperation as soon as the draft law is approved."

291. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 26§2 MOLDOVA

"The Committee concludes that the situation in Moldova is not in conformity with Article 26§2 of the Revised Charter on the grounds that neither Moldovan legislation nor any other regulatory or administrative measure provides for the necessary measures to protect individual workers against harassment other than sexual harassment directed against them."

292. See Article 26§1.

Article 27§3 – Prohibition of dismissal for reasons relating to family responsibilities

RSC 27§3 FINLAND

"The Committee concludes that the situation in Finland is not in conformity with Article 27§3 of the Revised Charter on the ground that legislation makes no provision for the reinstatement of workers unlawfully dismissed on grounds of their family responsibilities."

293. The representative of Finland provided the following information in writing :

"The Finnish legislation has not changed. It does not provide reinstatement in case of illegal dismissal. The Employment Contracts Act provides compensation the amount of which varies between 3 and 24 months' pay depending on case. In addition the victim may be entitled to indemnification under the Non- Discrimination Act, the Act on Equality between Women and Men or the Tort liability Ac. Such dismissal may also meet the requirement of work discrimination that is sanctioned in Penal Code.

In Finland an employment relationship is by nature a personal continuous obligation, the continuing or restoration of which even after groundless notice of dismissal can only be based on the mutual understanding of each contracting party. Neither our labour law system nor our general contractual system includes any obligation of payment in kind, which would be what the obligation to restore an employment relationship would mean. Instead, breach of a contract can only result in liability to compensate as provided by law.

The requirement concerning restoration of an employment relationship does not appear from the formulation of Article 8, paragraph 2, of the European Social Charter either. Deeming a notice of dismissal unlawful does not mean that an obligation to maintain an employment relationship through coercive means is required.

In connection with the preparation of the new Contracts of Employment Act entering into force on 1 June 2001, there was consensus on the fact that the continuing or restoration of an employment relationship, based on the decision of a court, is out of the question as a consequence of ungrounded termination of an employment contract. In connection with the preparation of the new Act, it was noted that this system did not function because of the

strong personal features related to an employment relationship. Only in very exceptional cases were the employments restored in practice..”

294. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC 27§3 IRELAND

“The Committee concludes that the situation in Ireland is not in conformity with Article 27§3 of the Revised Charter on the ground that the compensation to be awarded to an employee unlawfully dismissed on the grounds of his/her family responsibilities is subject to a ceiling.”

295. The representative of Ireland informed the Secretariat that he was not in a position to submit written information concerning all cases of non conformity for the first time relating to Conclusions 2007, because these cases are currently being examined by inter-departmental committees. Written information concerning all cases will be addressed in next reports on the relevant provisions.

Article 28 – Right of workers representatives to protection in the undertaking and facilities to be accorded to them

RSC 28 BULGARIA

“The Committee concludes that the situation in Bulgaria is not in conformity with Article 28 of the Revised Charter on the ground that the legislation applicable during the reference period does not provide for adequate protection in the event of an unlawful dismissal based on the employee’s status or activities as a trade union representative.”

296. The representative of Bulgaria provided the following information in writing :

“Under article 344 of the Labour Code, employees who consider that they have been unfairly dismissed are entitled to be reinstated if the courts find that their dismissal was unlawful. Under article 225.1 of the Code, employees are entitled to compensation equivalent to their gross monthly pay for the period in which they remained unemployed, up to a maximum of six months. In the case of unlawful dismissal, the employees concerned are entitled to leave for the period in which there was no employment relationship. This period is considered to be a period of service – from the date of dismissal to that of their reinstatement.
Under article 9§3, p. 2 of the Social Security Code, employers must pay their social security contributions for the whole of this period.
We consider that these measures are a sufficient disincentive to prevent employers from making unfair dismissals.
Apart from this procedure, in cases of discriminatory dismissal, the anti-discrimination commission, under the anti-discrimination legislation, or the courts can impose fines of up to € 5 000.”

297. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

Article 29 – Collective redundacies

RSC 29 SWEDEN

“The Committee concludes that the situation is not in conformity with Article 29 of the Revised Charter on the grounds that no provision is made for some possibility of recourse to administrative or judicial proceedings before redundancies are made to ensure that they are not put into effect before the consultation requirement is met.”

Ground of non conformity"

298. The representative of Sweden provided the following information in writing :

> "Workers' involvement in the decision making process in Swedish work places has a long and successful history. It was firstly introduced through collective agreements as early as in 1946. Legal requirements were introduced in 1976. The Swedish law on workers' involvement has been very influential and informing and consulting employees before important decisions are taken is a well established practice and legal requirement in Swedish working life. The Swedish law is considered to be a far-reaching and well functioning tool from a European perspective. The employer is obliged to initiate consultation with the workers' representative in good time before decisions are taken on collective redundancies and the consultation must be considered to be fulfilled before the decisions are taken.
> If the employees would consider that these rights were not accompanied by guarantees securing their exercise in practice the powerful Swedish trade unions would probably raise this issue, but they have not.
> It is also hard to find case law from the Labour Court which deals with companies who have ignored their consultation obligations completely. However the existing case law which deals with issues on failure to fulfil these obligations shows that the level of the non-punitive damage is high. In a recent case where the company made the decision before the consultations were completed was sentenced to pay a non-pecuniary damage on 75 000SEK (AD 98/2007). Besides the company was obliged to pay the costs for the proceedings for both parties which was almost 150 000 SEK for each trade union involved in the proceedings.
> The Swedish system must altogether be considered to guarantee these rights sin practice.."

299. The Committee invited the Government to provide all the relevant information in its next report and decided to await the next assessment of the ECSR.

RSC Article 31§1 – Adequate housing

RSC 31§1 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 31§1 in combination with Article E of the Revised Charter on the grounds that:

– not all regions have adopted legislation on Roma and there is not yet framework legislation at national level;
– Italy has failed again to show that it has taken adequate steps on all the territory to ensure that Roma are offered housing of a sufficient quantity and quality to meet their particular needs;
– Italy has failed again to show that it has ensured or has taken steps to ensure that all local authorities are fulfilling their responsibilities in this area;
– data on Roma are not yet collected at national level".

300. Having stated that the EU Commission approved this line of action in July 2008, the representative of Italy informed that the census of legal/illegal, nomad/settled Roma in Italy would finally enable the Government to define the actions needed to bring the Roma housing situation in conformity with the Charter. While awaiting the results of the census foreseen for mid October 2008, the Special Commissioners authorised incursions in camp settlements to verify their living conditions. A number of municipalities also undertook initiatives related to housing (e.g. Naples, where large camps settlements were separated in smaller ones; Padova and Voghera where land was assigned to Roma and financial aid was provided for the establishment of new camp settlements; Bologna and Pisa, where social dwellings were made available to Roma). However, the representative of Italy highlighted that solutions to the problems related with Roma require their active

involvement as well as that of their countries of origin, otherwise long term solutions will be difficult to achieve.

301. The representative of Bulgaria underlined that given the complexity of the situation regarding Roma, more time was required to appreciate whether any real progress had been made. Meantime, Italy should be invited to do what the ECSR indicated.

302. In reply to questions from the representatives of Poland, of the Czech Republic and the Chair, the representative of Italy clarified that the possibility of inlcuding a reference to the Roma and Sinti population in Law No. 482 of 1999 on the protection of the language and culture of national minorities, was not among the Government's priorities.

303. The representative of Lithuania suggested that Italy should clarify the situation in practice of Roma in all regions of Italy.

304. The representative of Romania pointed out that the ECSR had found that Italy had to collect data on Roma as they are, or could be, discriminated against and that the analysis of such data was a precondition for the formulation of rationale policy. It should therefore be acknowledged that Italy took relevant steps to that effect.

305. The Secretariat suggested that, if the Committee was going to welcome the Italian initiatives, it should clearly indicate which ones, as *inter alia*, the Council of Europe Commissioner for Human Rights, voiced strong concerns with respect to the Italian "security package".

306. The Committee welcomed the developments occurred after the reference period and asked the Government of Italy to provide the information requested on legilsation and practice with regard to both the national and regional levels. It also decided to await the ECSR's next assessment on Article 31§1 of the Revised Charter.

Article 31§2 – Reduction of homelessness

RSC 31§2 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 31§2 in combination with Article E of the Revised Charter on the grounds that Italy has failed again to establish that the relevant evictions it carried out satisfy the necessary conditions, and has not provided credible evidence to refute the claims that Roma have suffered unjustified violence during such evictions".

307. The representative of Italy referred to the information provided under Article 31§1 with regard to the Government's priorities. He also stated that, as concerns evictions, UNAR (Italian National Office against Racial Discrimination) monitors whether they take place in respect of the relevant human rights provisions. Where violence occurs, justice is sought. Referring to the razing of Romani camps near Naples in May 2008, he informed that investigations were being carried out to identify those to be held accountable of the violent acts.

308. The Committee took note of the information provided and decided to await the ECSR's next assessment on Article 31§2 of the Revised Charter.

Article 31§3 – Affordable housing

RSC 31§3 ITALY

"The Committee concludes that the situation in Italy is not in conformity with Article 31§3 in combination with Article E of the Revised Charter on the ground that Italy failed again to show that it has taken into consideration the different situation of Roma when introducing measures specifically aimed at improving their housing conditions, including the possibility for an effective access to social housing, on the whole territory".

309. The representative of Italy referred to the information provided under Article 31§1 with regard to the Government's priorities and reiterated the importance of the outome of the census to deicide on action to be taken also under Article 31§3. He also informed that considerable sums had been committed for the improvement of housing conditions of Roma in Rome, Milan and Torino. The misuse of these sums was reported and investigations are being carried out.

310. The Committee took note of the information provided and decided to await the ECSR's next assessment on Article 31§3 of the Revised Charter.

APPENDIX I / ANNEXE I

LIST OF PARTICIPANTS / LISTE DES PARTICIPANTS

(1) 117e réunion : 13-16 mai 2008
(2) 118e réunion : 6-9 octobre 2008

STATES PARTIES / ETATS PARTIES

ALBANIA / ALBANIE
Mrs Albana SHTYLLA, Director of the Legal Department, Ministry of Labour, Social Affairs, and Equal Opportunities, Rruga e Kavajes nr. 53, TIRANA
(1) (2)

ANDORRA / ANDORRE
M. Josep Anton BARDINA, Secrétaire d'Etat des Affaires Sociales, Ministère des Affaires Sociales, de la Famille et du Logement, Av Princep Benlloch, 30 4t Edifici Clara Rebassa AD 500 ANDORRA-LA-VIELLA
(1)

Mme. Carmen PALLARÈS, Ministère de la Santé, du Bien-être et du Logement, Av Princep Benlloch, 30 4t Edifici Clara Rebassa AD 500 ANDORRA-LA-VIELLA
(2)

ARMENIA / ARMENIE
M. Tigran SAHAKYAN, Conseiller de Ministre, Ministère du Travail et des Questions sociales, Maison du Gouvernement 3, EREVAN 0010, RA
(1) (2)

AUSTRIA / AUTRICHE
Mrs Elisabeth FLORUS, Federal Ministry of Economics and Labour, Stubenring 1, A - 1011 WIEN
(1) (2)

AZERBAIJAN / AZERBAÏDJAN
Mr Hanifa AHMADOV, Deputy Head of the International Cooperation Department, Ministry of Labour and Social Protection of Population, S. Asgarova Str. 85, AZ 1009 BAKU
(1) (2)

BELGIUM / BELGIQUE
Mme Marie-Paule URBAIN, Conseillère, Service public fédéral Emploi, Travail et Concertation sociale, Services du Président, Division des Etudes juridiques, Rue Ernest Blerot 1, B - 1070 BRUXELLES
(1) (2)

Mme Murielle FABROT, Attachée, Service public fédéral Emploi, Travail et Concertation sociale, Division des Etudes juridiques, de la documentation et du contentieux, Rue Ernest Blerot, 1 B - 1070 BRUXELLES
(1) (2)

BULGARIA / BULGARIE
Mr Nikolay NAYDENOV, Head of International Organizations Section in International Relations Unit of Directorate for European Integration and International Relations, Ministry of Labor and Social Policy, 2, Triaditza Str., 1051 SOFIA
(1) (2)

CROATIA / CROATIE
Mrs Gordana DRAGIČEVIĆ, Head of the Division for European Integration, Department for European Integrationa and Project Management, Ministry of Economy, Labour and Entrepreneurship, Ulica Grada Vukovara 78, HR 10000 ZAGREB
(1) (2)

CYPRUS / CHYPRE
Mr Costas CHRYSOSTOMOU, Senior Administrative Officer, Ministry of Labour and Social Insurance, 7 Byron Avenue, CY-1463 NICOSIA
(1) (2)

CZECH REPUBLIC / REPUBLIQUE TCHEQUE
Ms Kateřina MACHOVÁ, Legal Official; Ministry of Labour and Social Affairs, Na Poříčním právu 1, 128 00 PRAHA 2
(1) (2)

DENMARK / DANEMARK
Mr Jørgen WINTHER, Head of Unit, Danish Education Support Agency, Danasvej 30, DK-1780 COPENHAGEN V
Ms Marianne Gjevert PETERSEN, Specialkonsulent, Special Adviser, Danish Education Support Agency, Danasvej 30, DK-1780 COPENHAGEN V
(2)

ESTONIA / ESTONIE
Mrs Merle MALVET, Head of Social Security Department, Ministry of Social Affairs, Gonsiori 29, EE - 15027 TALLINN
(1) (2)

Mrs Kerstin PETERSON, Chief specialist of Labour Market Department, Ministry of Social Affairs, Gonsiori 29, EE - 15027 TALLINN
(1)

Mrs Thea TREIER; Head of Employment Relations, Working Life Development Department, Ministry of Social Affairs, Gonsiori 29, 15027 TALLINN
(2)

FINLAND / FINLANDE
Mrs Liisa SAASTAMOINEN, Senior Officer Legal Affairs, Ministry of Employment and the Economy, P.O.Box 32, FI – 00023 GOVERNMENT Finland
(1) (2)

Mrs Riitta-Maija JOUTTIMÄKI, Ministerial Councellor, Ministry of Social Affairs and Health, Box 33, FI - 00023 GOVERNMENT
(1) (2)

FRANCE
Mme Jacqueline MARECHAL, Chargée de mission, Délégation aux affaires européennes et internationales, Ministère de la Santé et des Solidarités, 14, avenue Duquesne, 75350 PARIS 07 SP
(1) (2)

GEORGIA / GEORGIE
Mr George KAKACHIA, Head of Social Protection Programmes Division, Social Protection Department, Ministry of Labour, Health and Social Affairs, Pekini ave. 30, TBILISI 0160
Tel/Fax: +995 32 38 75 80
E-mail: gika@moh.gov.ge

GERMANY / ALLEMAGNE
Mr Udo PRETSCHKER, Federal Ministry of Labour and Social Affairs, Bundesministerium für Arbeit und Soziales, Referatsleiter VI b 4 -, Wilhelmstrasse 49, D-10117 BERLIN
(2)

GREECE / GRECE
Ms Paraskevi KAKARA, Official, Department of International Relations, Ministry of Employment and Social Protection, Pireos Street 40, GR - 101 82 ATHENS
(1) (2)

Ms Athina DIAKOUMAKOU, Head of Section II, Department of International Relations, Ministry of Employment and Social Protection, Pireos 40, GR -101 82 ATHENS
(1)

Ms Evanghelia ZERVA, Official, Ministry of Employment and Social Protection, International Relations Directorate, , Pireos 40, GR -101 82 ATHENS
(2)

HUNGARY / HONGRIE
Mr Laszlo BENCZE, Legal Expert, Ministry of Social Affairs and Labour, Department for EU and International Affairs, Alkotmany u. 3, H-1054 BUDAPEST
(1)

Mr Gyorgy KONCZEI (**Chair/Président**), Advisor, Ministry of Social Affairs and Labour, Alkotmany u. 3, H - 1054 BUDAPEST
(2)

ICELAND / ISLANDE
Mrs Hanna Sigrídur GUNNSTEINSDÓTTIR, Director, Ministry of Social Affairs, Hafnarhúsinu v/Tryggvagötu, IS - 150 REYKJAVIK
(2)

IRELAND / IRLANDE
Mr John Brendan McDONNELL, International Officer, International Desk, Employment Rights' Legislation Section, Department of Enterprise, Trade and Employment, Room 4.11, Davitt House, Adelaide Road, IRL - DUBLIN 2
(1) (2)

ITALY / ITALIE
Ms Carmen FERRAIOLO, Junior Official, Ministry of Labour and Social Security, Via Fornovo 8, I - 00192 ROMA (RM)
(1) (2)

Ms Monica BERGER, Ministry of Labour and Social Security, Directorate General Working Conditions, Via Fornovo, 8, I-000192 ROMA (RM)
(1) (2)

M. Domenico MORELLI, Dipartimento per le libertà civili e l'immigrazione – Direzione centrale per i diritti civili, la cittadinanza e le minoranze – Area IV Minoranze storiche e nuove minoranze, Ministero dell'Interno – Via Cesare Balbo 39, I – 00184 ROMA
(2)

LATVIA / LETTONIE
Ms Dace ZABINAKO, Head of International Agreements and Relation Unit, Ministry of Welfare of The Republic of Latvia, Social Insurance Department, Skolas Iela 28, LV - 1331 RIGA
(1)

Mr Sergejs MALUHINS, Legal adviser, International Agreements and Relation Unit, Social Insurance Department, Ministry of Welfare of The Republic of Latvia. Skolas Iela 28, LV - 1331 RIGA
(2)

LITHUANIA / LITUANIE
Ms Kristina VYSNIAUSKAITE-RADINSKIENE, Chief Specialist of International Law Division, Ministry of Social Security and Labour, A. Vivulskio str. 11, LT - 03221 VILNIUS
(1) (2)

LUXEMBOURG
M. Joseph FABER, Conseiller de direction première classe, Ministère du Travail et de l'Emploi, 26 rue Zithe, L - 2939 LUXEMBOURG
(1) (2)

MALTA / MALTE
Mr. Joseph CAMILLERI, Director General, Social Security Division, Directorate General, 38 Ordinance Street, VLT - 2000 VALLETTA
(1)

Mr Frankie MICALLEF, Director (Benefits), Social Security Division, 38 Ordnance Street, VALLETTA VLT 2000
(2)

MOLDOVA
Mme Lilia CURAJOS, Chef de la Section des relations internationales et communication, Ministère de la Protection sociale, de la Famille et de l'Enfant, Vasile Alecsandri str 1., MD – 2009 CHISINAU
(1) (2)

NETHERLANDS / PAYS-BAS
Mr Onno P. BRINKMAN, Policy Advisor, Ministry of Social Affairs and Employment, Postbus 90801, NL - 2509 LV THE HAGUE
(1) (2)

NORWAY / NORVEGE
Ms Cecilie Roaldsøy SÆTHER, Senior Adviser, Ministry of Labour and Social Inclusion, P.O. Box 8019 Dep., NO – 0030 OSLO
(1)

Ms Mona SANDERSEN, Senior Advicer, Ministry of Labour and Social Inclusion, Working Environment and Safety Departement, P.O. Box 8019 Dep., NO – 0030 OSLO
(2)

POLAND / POLOGNE
Mme Joanna MACIEJEWSKA, Conseillère du Ministre, Département des Analyses Economiques et Prévisions, Ministère du Travail et de la Politique Sociale, ul. Nowogrodzka 1/3, 00-513 VARSOVIE
(1) (2)

PORTUGAL
Ms Maria Alexandra PIMENTA, **(Chair/Présidente),** Legal Adviser of the Secretary of State Adjunct and for the Rehabilitation, Praça de Londres, nº 2, 14º - 1049-056 LISBOA
(2)

ROMANIA / ROUMANIE
Ms Claudia Roxana ILIESCU, Main Expert, Directorate for External Relations and International Organisations, Ministry of Labour, Family and Equal Opportunities, 2 B Dem. I. Dobrescu Street, Sector 1, 70119 BUCHAREST
(1)

Ms Cristina ZORLIN, Senior counsellor, Directorate for External Relations and International Organisations, Ministry of Labour, Family and Equal Opportunities, 2 B Dem. I. Dobrescu Street, Sector
(2)

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE
Mr Juraj DŽUPA, Director, Department of EU Affairs and International Cooperation, Ministry of Labour, Social Affairs and Family, Špitálska 4-8, SK 816 43 BRATISLAVA
(1) (2)

SLOVENIA / SLOVENIE
Mrs Natasa SAX, Senior Adviser, International Cooperation and European Affairs Service, Ministry of Labour, Family and Social Affairs, Kotnikova 5, SI - 1000 LJUBLJANA
(1) (2)

SPAIN / ESPAGNE
M. Carlos LÓPEZ-MONIS DE CAVO, Conseiller des relations sociales internationales, Ministère du Travail et des Affaires sociales, c/María de Guzmán 52, Bureau n° 506, ES - 28003 MADRID
(1) (2)

SWEDEN / SUEDE
Ms Helle ELLEHÖJ, Deputy director, Division for Labour Law and Work Environment, Ministry of Employment, Jakobsgatan 26, SE - 103 33 STOCKHOLM
(1) (2)

"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" /
« L'EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE »"
Mr Darko DOCINSKI, Head of Unit for Coordination of Realisation of Programme for Adoption of Acquis Communautaire and Negotiations for Accession, Ministry of Labour and Social Policy, "Dame Gruev" 14, 1000 SKOPJE
(1) (2)

TURKEY / TURQUIE
Ms Selmin SENEL, Expert, Directorate General for External Relations and Services for Workers Abroad, Ministry of Labour and Social Security, Inonu Bulvari No. 42, TR - 06520 EMEK - ANKARA
(1) (2)

Mr Serdar EKINCI, Assistant Expert, Directorate General for External Relations and Services for Workers Abroad, Ministry of Labour and Social Security, Inonu Bulvari No. 42, TR - 06520 EMEK - ANKARA
(2)

UKRAINE
Mrs Natalia POPOVA, Senior Officer, Ministry of Labour and Social Policy, 8/10 Esplanadna Str., UA - 01023 KYIV
(1) (2)

UNITED KINGDOM / ROYAUME-UNI
Mr Robert Tudor ROBERTS, International Negotiator, Joint International Unit, Dept for Work and Pensions / Dept for Education and Skills, 5A Caxton House, 6-12 Tothill Street, GB - LONDON SW1H 9NA
(1) (2)

Mr Stephen RICHARDS, International Relations Division, Dept for Work and Pensions, 5A Caxton House, 6-12 Tothill Street, GB - LONDON SW1H 9NA
(2)

SOCIAL PARTNERS / PARTENAIRES SOCIAUX

EUROPEAN TRADE UNION CONFEDERATION /
CONFEDERATION EUROPEENNE DES SYNDICATS
Mr Stefan CLAUWAERT, ETUC NETLEX Coordinator, European Trade Union Institute for Research, Education and Health and Safety (ETUI-REHS), Boulevard du Roi Albert II, 5, Boîte 4, B - 1210 BRUXELLES
(1) (2)

M. Henri LOURDELLE, Conseiller, Confédération Européenne des Syndicats, Boulevard du Roi Albert II, 5, B - 1210 BRUXELLES
(1) (2)

BUSINESSEUROPE
(former UNION OF INDUSTRIAL AND EMPLOYERS' CONFEDERATIONS OF EUROPE /
ex- UNION DES CONFEDERATIONS DE L'INDUSTRIE ET DES EMPLOYEURS D'EUROPE)
– (1) (2)

INTERNATIONAL ORGANISATION OF EMPLOYERS /
ORGANISATION INTERNATIONALE DES EMPLOYEURS
– (1) (2)

SIGNATORIES STATES / ETATS SIGNATAIRES

BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE
Ms Azra HADŽIBEGIĆ, Expert Adviser for Human Rights, Ministry for Human Rights and Refugees, Trg Bosne i Hercegovine 1, 71000 SARAJEVO
(1) (2)

LIECHTENSTEIN
– (1) (2)

MONACO
M. Stéphane PALMARI, Secrétaire, Département des Affaires Sociales et de la Santé, Ministère d'Etat, Place de la Visitation, MC 98000 MONACO
(1) (2)

MONTENEGRO
Ms Vjera SOC, Senior Adviser for International Cooperation, Ministry of Health, Labour and Social Welfare, Rimski trg 46 a / PC Vektra, 81000, PODGORICA
(1) (2)

Ms Anka STOJKOVIC, Head Labour Inspector, Ministry of Health, Labour and Social Welfare, Rimski trg 46, 81000 PODGORICA
(2)

RUSSIAN FEDERATION / FEDERATION DE RUSSIE
Mme Elena VOKACH-BOLDYREVA, Conseillère, Département de la coopération internationale et des relations publiques, Ministère de la Santé et du Développement social, Rakhmanovskiy per 3, MOSCOU 127994
(2)

SAN MARINO / SAINT-MARIN
– (1) (2)

SERBIA / SERBIE
Ms Dragana RADOVANOVIC, Senior Adviser, Sector for International Cooperation and European Integration; Ministry of Labor and Social Policy, Nemanjina St. 22-26, BELGRADE
(1) (2)

Mr Ivan SEKULOVIC, Counselor, Sector for International Cooperation and European Integration, Ministry of Labor and Social Policy, Nemanjina St. 22-26, BELGRADE
(1)

SWITZERLAND / SUISSE
– (1) (2)

Appendix II
Chart of Signatures and Ratifications

Situation at 7 October 2008

MEMBER STATES	SIGNATURES	RATIFICATIONS	Acceptance of the collective complaints procedure
Albania	21/09/98	14/11/02	
Andorra	04/11/00	12/11/04	
Armenia	18/10/01	21/01/04	
Austria	07/05/99	**29/10/69**	
Azerbaijan	18/10/01	02/09/04	
Belgium	03/05/96	02/03/04	23/06/03
Bosnia and Herzegovina	11/05/04	07/10/08	
Bulgaria	21/09/98	07/06/00	07/06/00
Croatia	**08/03/99**	**26/02/03**	26/02/03
Cyprus	03/05/96	27/09/00	06/08/96
Czech Republic	04/11/00	**03/11/99**	
Denmark *	03/05/96	**03/03/65**	
Estonia	04/05/98	11/09/00	
Finland	03/05/96	21/06/02	17/07/98 **X**
France	03/05/96	07/05/99	07/05/99
Georgia	30/06/00	22/08/05	
Germany *	29/06/07	**27/01/65**	
Greece	03/05/96	**06/06/84**	18/06/98
Hungary	07/10/04	**08/07/99**	
Iceland	04/11/98	**15/01/76**	
Ireland	04/11/00	04/11/00	04/11/00
Italy	03/05/96	05/07/99	03/11/97
Latvia	29/05/07	**31/01/02**	
Liechtenstein	**09/10/91**		
Lithuania	08/09/97	29/06/01	
Luxembourg *	11/02/98	**10/10/91**	
Malta	27/07/05	27/07/05	
Moldova	03/11/98	08/11/01	
Monaco	05/10/04		
Montenegro	22/03/05		
Netherlands	23/01/04	03/05/06	03/05/06
Norway	07/05/01	07/05/01	20/03/97
Poland	25/10/05	**25/06/97**	
Portugal	03/05/96	30/05/02	20/03/98
Romania	14/05/97	07/05/99	
Russian Federation	14/09/00		
San Marino	18/10/01		
Serbia	22/03/05		
Slovak Republic	18/11/99	**22/06/98**	
Slovenia	11/10/97	07/05/99	07/05/99
Spain	23/10/00	**06/05/80**	
Sweden	03/05/96	29/05/98	29/05/98
Switzerland	**06/05/76**		
«the former Yugoslav Republic of Macedonia»	**05/05/98**	**31/03/05**	
Turkey	06/10/04	27/06/07	
Ukraine	07/05/99	21/12/06	
United Kingdom *	07/11/97	**11/07/62**	
Number of States 47	**4**+ 43 = 47	**15** + 25 = 40	14

The **dates in bold** on a grey background correspond to the dates of signature or ratification of the 1961 Charter; the other dates correspond to the signature or ratification of the 1996 revised Charter.

* States whose ratification is necessary for the entry into force of the 1991 Amending Protocol. In practice, in accordance with a decision taken by the Committee of Ministers, this Protocol is already applied.

X State having recognised the right of national NGOs to lodge collective complaints against it.

Appendix III
List of cases of non-compliance

A. Conclusions of non-conformity for the first time

CSR 2§3 ALBANIA
CSR 2§4 ALBANIA
CSR 4§4 ALBANIA
CSR 22 ALBANIA
CSR 26§2 ALBANIA

CSR 4§4 ARMENIA
CSR 17§1 ARMENIA

CSR 8§3 BELGIUM
CSR 9 BELGIUM
CSR 11§1 BELGIUM
CSR 11§3 BELGIUM
CSR 15§1 BELGIUM
CSR 15§3 BELGIUM

CSR 4§4 BULGARIA
CSR 28 BULGARIA

CSR 1§4 ESTONIA
CSR 2§1 ESTONIA
CSR 9 ESTONIA
CSR 15§3 ESTONIA

CSR 15§3 FINLAND
CSR 27§3 FINLAND

CSR 2§1 FRANCE
CSR 3§3 FRANCE
CSR 15§2 FRANCE
CSR 15§3 FRANCE

CSR 2§1 IRELAND
CSR 3§3 IRELAND
CSR 4§1 IRELAND
CSR 4§5 IRELAND
CSR 9 IRELAND
CSR 11§3 IRELAND
CSR 18§2 IRELAND
CSR 27§3 IRELAND

CSR 2§1 ITALY
CSR 4§1 ITALY
CSR 11§2 ITALY
CSR 17§1 ITALY
CSR 18§1 ITALY
CSR 21 ITALY
CSR 22 ITALY

CSR 2§1 LITHUANIA
CSR 3§2 LITHUANIA
CSR 4§5 LITHUANIA
CSR 15§2 LITHUANIA

CSR 1§4 MOLDOVA
CSR 4§5 MOLDOVA
CSR 15§1 MOLDOVA
CSR 15§2 MOLDOVA

CSR 1§4 NORWAY
CSR 4§1 NORWAY
CSR 10§5 NORWAY
CSR 15§1 NORWAY
CSR 15§3 NORWAY
CSR 21 NORWAY
CSR 22 NORWAY

CSR 1§4 ROMANIA
CSR 3§2 ROMANIA
CSR 4§5 ROMANIA

CSR 4§1 SWEDEN
CSR 10§5 SWEDEN
CSR 29 SWEDEN

B. Renewed conclusions of non conformity

CSR 1§4 BELGIUM
CSR 4§2 BELGIUM
CSR 10§3 BELGIUM (Charter until Conclusions XVI-2)
CSR 10§5 BELGIUM (Charter until Conclusions XVI-2)
CSR 17§1 BELGIUM
CSR 18§1 BELGIUM

CSR 4§4 BULGARIA
CSR 24 BULGARIA

CSR 3§2 CYPRUS
CSR 24 CYPRUS

CSR 3§2 ESTONIA
CSR 4§4 ESTONIA

CSR 2§1 FINLAND
CSR 4§2 FINLAND
CSR 8§2 FINLAND
CSR 10§5 FINLAND (Charter until Conclusions XVI-2)

CSR 2§1 FRANCE
CSR 3§2 FRANCE
CSR 4§2 FRANCE
CSR 4§4 FRANCE
CSR 10§5 FRANCE
CSR 15§1 FRANCE

CSR 1§4 IRELAND
CSR 4§4 IRELAND
CSR 10§1 IRELAND (Charter until Conclusions XVI-2)
CSR 10§3 IRELAND (Charter until Conclusions XVI-2)
CSR 10§5 IRELAND (Charter until Conclusions XVI-2)
CSR 18§3 IRELAND

CSR 1§4 ITALY
CSR 3§2 ITALY
CSR 4§4 ITALY
CSR 4§5 ITALY
CSR 8§3 ITALY
CSR 15§1 ITALY
CSR 15§3 ITALY
CSR 18§2 ITALY
CSR 24 ITALY
CSR 31§1 ITALY
CSR 31§2 ITALY
CSR 31§3 ITALY

CSR 26§1 MOLDOVA
CSR 26§2 MOLDOVA

CSR 4§1 NETHERLANDS

CSR 2§1 NORWAY
CSR 4§5 NORWAY
CSR 10§5 NORWAY (Charter until Conclusions XVI-2)

CSR 3§2 ROMANIA
CSR 4§1 ROMANIA
CSR 4§4 ROMANIA
CSR 15§1 ROMANIA

CSR 1§4 SLOVENIA
CSR 3§3 SLOVENIA
CSR 10§1 SLOVENIA
CSR 10§2 SLOVENIA
CSR 10§3 SLOVENIA
CSR 10§5 SLOVENIA

CSR 4§4 SWEDEN

Appendix IV
List of Deferred conclusions

C. Conclusions deferred for lack of information for the second time

BELGIUME	CSR 14§1, 14§2
BULGARIA	CSR 1§4, 2§5, 3§4, 4§2, 4§5,
CPRUS	CSR 10§3, 10§4
ESTONIA	CSR 10§3, 10§4,
FINLAND	CSR 18§3
FRANCE	CSR 1§4
IRELAND	CSR 4§2
ITALY	CSR 4§2, 11§1, 14§2, 18§3, 27§3, 30
LITUANIA	CSR 1§4, 4§1, 10§3, 26§2
MOLDOVA	CSR 2§5, 2§6, 2§7, 3§2, 3§3, 4§3, 9, 24, 28
NORWAY	3§3, 10§3, 10§4
ROMANIA	CSR 2§1, 3§1, 3§3, 4§2
SLOVENIA	CSR 2§1, 3§4, 26§2
SWEDEN	CSR 4§3, 15§1

D. Conclusions deferred because of questions asked for the first time or additional questions (first reports and others)

ALBANIA	CSR 1§4 (questions asked for the first time), 2§1 (first report on the provision), 2§2, 2§5, 2§6, 2§7, 3§1 (first report on the provision), 3§2 (first report on the provision), 3§3 (first report on the provision), 3§4 (first report on the provision 4§1 (first report on the provision), 4§3 (first report on the provision), 4§5 (first report on the provision), 8§2, 8§3, 8§5, 11§1 (questions asked for the first time), 11§2 (questions asked for the first time), 11§3 (questions asked for the first time), 21 (first report on the provision), 24, 25 (questions asked for the first time), 26§1 (questions asked for the first time), 28 (first report on the provision), 29
ARMENIA (first report)	CSR 1§4, 2§1, 2§4, 2§5, 3§1, 4§2, 4§3, 4§5, 8§2, 8§4, 8§5, 14§2, 15§2, 15§3; 17§2, 18§1, 18§2, 18§3, 22, 27§1, 27§2, 27§3, 28
BELGIUM	CSR 2§4, 2§5, 2§6, 3§1 (first report on the provision),

	4§1 (first time), 4§3, 4§4, 8§2, 10§4, 15§2 (first report), 21 (first report), 22 (first report), 29, 30 (first report)
BULGARIA	CSR 2§7, 21, 22, 29
CYPRUS	CSR 1§4 (new questions, third deferral), 15§1, 15§2, 15§3
ESTONIA	CSR 2§3, 15§2, 21, 22, 29
FINLAND	CSR 1§4 (new questions), 2§4, 10§3, 10§4, 11§1 (new questions), 11§3 (new questions), 14§1 (first report), 18§2, 18§3, 26§2 (questions asked for the first time), 27§1 (first report), 29 (first report), 30 (first report), 31§1 (first report)
FRANCE	CSR 2§3, 9 (additional questions)
IRELAND	CSR 2§4, 10§4, 11§2 (questions asked for the first time), 15§3, 18§1, 27§1 (first report), 29
ITALY	CSR 2§4, 2§7, 3§3, 8§2, 9 (additional questions), 10§4, 15§2, 18§3, 27§1, 29
LITUANIA	CSR 4§2 (first time), 15§3, 21, 22, 28, 29
MOLDOVA	CSR 2§2, 2§4, 4§4, 21, 29
NORWAY	CSR 2§4
ROMANIA	CSR 2§4, 2§7, 9 (additional questions), 15§2, 21, 24, 28, 29
SLOVENIA	CSR 2§3, 4§2 (first time), 15§1, 15§2, 15§3, 29
SWEDEN	CSR 1§4 (new questions)

Appendix V
Warning(s) and Recommendation(s)

Warning(s)[1]

Article 4, paragraph 4
– Romania
(A fifteen days' notice is insufficient in the case of employees with more than six months' service.)

Article 4, paragraph 5
– Italy
(It has not been fully established that, in practice, the wages paid after any deductions are still sufficient for workers to provide for themselves and their dependants.)

Recommendation(s)

–

Renewed Recommendation(s)

Article 4, paragraphs 4
– Ireland - Recommendation No. RChS(95)6
(The periods of notice laid down in the 1973 Act are inadequate.)

[1] If a warning follows a notification of non-conformity ("negative conclusion"), it serves as an indication to the state that, unless it takes measures to comply with its obligations under the Charter, a recommendation will be proposed in the next part of a cycle where this provision is under examination.