Strasbourg, 30 November 2005

T-SG (2005) 25

GOVERNMENTAL COMMITTEE OF THE EUROPEAN SOCIAL CHARTER

REPORT CONCERNING

CONCLUSIONS 2005

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/T/E/Human_Rights/Esc.

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 thirty-eight 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 in a consultative capacity meetings of the Committee. The Union of Industrial and Employers' Confederations of Europe (UNICE) is also invited to attend but did not participate in meetings in 2005.

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 the Charter, the States Parties are under the obligation to consult the national organisations of employers and the national trade unions on the content of the report. Reports are published on www.coe.int/T/E/Human_Rights/Esc.

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 27 of the Charter, the Governmental Committee has examined national reports submitted by Bulgaria, Cyprus, Estonia, France, Ireland (incomplete report), Lithuania, Moldova, Norway, Romania, Slovenia and Sweden in application of the European Social Charter (revised). Reports were due on 31 March 2004 at the latest. The Governmental Committee repeats that it attaches a great importance to the respect of the deadline by the States Parties.

Ireland presented an incomplete report. Italy did not present a report.

5. Conclusions 2005 of the European Committee of Social Rights were adopted in December 2004 for the following States: Estonia, France, Lithuania, Moldova, Romania, Slovenia, Sweden, and in May 2004 for the following States: Bulgaria, Cyprus, Norway.

6. The Governmental Committee held three meetings (17-20 May 2005, 20-23 September 2005 and 18-20 October 2005), which were chaired by Mrs Marie-Paule URBAIN (Belgium).

[1] List of the states parties on 1 November 2005 : Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, "the formerYugoslav Republic of Macedonia", Turkey and the United Kingdom.

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) (Bosnia and Herzegovina, the Russian Federation, Serbia and Montenegro, Ukraine) 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 in December 1998, other signatory states were also invited to attend the meetings of the Committee (namely, 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 12 November 2004, Andorra had ratified the European Social Charter (revised);

– on 22 March 2005, Serbia and Montenegro had signed the European Social Charter (revised);

– on 31 March 2005, “the former Yugoslav Republic of Macedonia” had ratified the European Social Charter;

– on 1 June 2005, Hungary had ratified the 1988 Additional Protocol to the Charter and accepted Articles 1, 2 and 3;

– on 27 July 2005, Malta had ratified the European Social Charter (revised);

– on 22 August 2005, Georgia had ratified the European Social Charter (revised);

– on 25 October 2005, Poland had signed the European Social Charter (revised).

9. The state of signatures and ratifications on 1 November 2005 appears in Appendix II to the present report.

II. EXAMINATION OF NATIONAL SITUATIONS ON THE BASIS OF CONCLUSIONS 2005 OF THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS

10. The Governmental Committee continues the improvement of its working methods. It also envisaged the adoption of a new reporting system, and will submit proposals to the Committee of Ministers on this matter. 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.

11. The Governmental Committee examined the situations not in conformity with the European Social Charter (revised) listed in Appendix III to the present report.

12. The Governmental Committee took note of the cases where the conclusion is deferred because of new questions put by the European Committee of Social Rights as they appear in Appendix IV to the present report. It asked governments to reply to the questions in their next reports.

13. During its examination, the Governmental Committee took note of important positive developments in several States Parties. It invites governments to continue their efforts with a view to ensure compliance with the European Social Charter (revised). In particular, it asked governments to take into consideration Recommendations adopted by the Committee of Ministers. It adopted the warnings set out in Appendix V to this report.

14. The Governmental Committee proposes to the Committee of Ministers to adopt the following Resolution:

Resolution on the implementation of the European Social Charter (revised) during the period 2001-2002 ("non hard core" provisions)

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

The Committee of Ministers,[1]

[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, Andora, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey and the United Kingdom.

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 Bulgaria, Cyprus, Estonia, France, Ireland (incomplete report), Lithuania, Moldova, Norway, Romania, Slovenia and Sweden (concerning period of reference 2001-2002)[1];

Considering Conclusions 2005 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;

Recommends that Governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2005 of the European Committee of Social Rights and in the report of the Governmental Committee.

EXAMINATION ARTICLE BY ARTICLE

A. CASES OF NON-COMPLIANCE

Article 2§1– Reasonable working hours

NORWAY

15. The Norwegian delegate stated that the Working Environment Act will come into force in January 2006, which will change the situation concerning the working hours. Full information will be provided in the next report.

16. The Committee noted with satisfaction that a new law had been adopted and decided to await the next assessment of the ECSR.

Article 3§2 – Issue of safety and health regulations

CYPRUS

17. The Cypriot delegate provided the following information in writing:

"According to Article 3, paragraph 4, of the Safety and Health at Work Law L.89(I)/96, this law and the relevant Occupational Safety and Health (OSH) legislation issued

[1] As far as Bulgaria, Cyprus and Estonia are concerned, the beginning of the reference period coincided with the entry into force of the European Social Charter (revised) for each of these States.

under it, does not include in its scope domestic servants employed in private dwellings.

The reasons for excluding the domestic servants (who work in households) are the constitutional and practical constraints that prohibit Labour Inspectors to enter and inspect the premises (private dwellings) where domestic workers carry out their work. This difficulty emanates from Articles 15 and 16 of the Constitution of the Republic of Cyprus which guarantee the right of personal and family privacy and the inviolable of private dwelling, respectively.

More specifically, Article 16 states that the private dwelling of each citizen of the Republic is inviolable. Entry or any search inside can only be granted by Court Order or with the consent of the tenant of the private dwelling.

The practical constraints arise from the judicial difficulties to obtain the necessary Court Order in order to enter such premises, which in return, tender the effective and essential enforcement to the OSH legislation to such places of work almost impracticable. The monitoring of the implementation of the OSH legislation is negatively affected, because the time consuming judicial procedures eliminate the element of rapid response in case where immediate action is required.

However in the light of the comments of the ECSR, the Government will examine ways to safeguard the safety and health of domestic servants. Towards this direction, the Government may seek advice from other states of the Council that are in conformity with respect to this provision of Article 3 of the European Social Charter (revised). At a second stage, the Government shall bring the issue to the Labour Advisory Board to obtain the consent the social partners in order to proceed with the necessary changes in the OSH legislation and practise."

18. The Committee invited Cyprus to bring the situation into conformity with the revised Charter.

ESTONIA

19. The Estonian delegate provided the following information in writing:

"Indeed, the Occupational Health and Safety Act (hereinafter "OHSA") currently applies to the work or the conditions of service of persons engaged under a contract of employment, public servants and, in line with the specifics provided in the special act, members of the Defence Forces in active service, members of the National Defence League, officers of the police, the rescue service and the border guard. This Act also applies to the work of prisoners with the specifics provided in the Imprisonment Act, the work of students and pupils during internship and the work of the members of the Management Board or an executive body of a company (OHSA, paragraph 1).

The Ministry of Social Affairs will propose an amendment to the Act that extends the provisions of the OHSA to include self-employed persons, in line with the specifics arising from the status/self-sufficiency of an entrepreneur. The bill is sought to be discussed and passed during 2005."

20. The Committee noted the positive developments announced and decided to await the next assessment of the ECSR.

Article 4§4 – Reasonable notice of termination of employment

ESTONIA

21. The Estonian delegate provided the following information in writing:

"Pursuant to the Republic of Estonia Employment Contracts Act (hereinafter "ECA"), an employer is required to notify an employee of termination of a contract of employment at least one month in advance when the employee is unsuitable for the post, irrespective of the employee's length of service with employer (ECA, paragraph 87(1)(4)). In practice, it is very unlikely indeed, that an employee who has performed the same kind of work for over 5 years is dismissed on grounds of unsuitability for the job. Unsuitability of an employee becomes evident mostly during the trial period. If an employee has successfully completed the probationary period and unsuitability for the post or the work to be performed has been established only later, it is improbable that it would have taken years, i.e. it is unlikely that an employee can have attained service longer than 5 years with that employer. Further, an employer is required to use other means for a better organisation of work (retraining and further training) and offer another job for an employee. Unsuitability may occur during employment relationship, for instance because of reorganisation of production or work; in this case an employment contract may be terminated with reference to unsuitability only *if the employee refuses to participate in training provided by the employer.* Further, the lack of a document entitling the holder to perform a particular job can be regarded as unsuitability (e.g. a driver cannot drive while his/her licence is suspended because of traffic offences). *Employer is obliged to offer an employee the kind of work suitable for his/her capabilities*. An employer is always required to justify the need to terminate a contract of employment with an employee for reasons of unsuitability (ECA, paragraph 87(1^1).

Pursuant to paragraph 87(1)(5) of the ECA, the period of notice for termination of an employment contract shall *not be less* than two weeks' in advance in case of long-term incapacity for work. It is essential to point out that this provision constitutes an extraordinary basis for the termination of an employment contract, which allows the employer to terminate the contract *only* during the period of incapacity of the employee. Long-term incapacity means an absence of an employee from work for over four months in a row or for a total of over five months during a calendar year; an exception is tuberculosis as a long-term incapacity for eight months in a row or as a total during a calendar year. The said provision cannot be applied in case of incapacity caused by occupational injury. Neither can it be applied for termination of an employment contract during an employee's maternity leave or parental leave. In case of termination of an employment contract under paragraph 87(1)(5) of the ECA, the period of notice does not depend on the length of service. In practice, the said provision very rarely constitutes a basis for termination of employment."

22. 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.

MOLDOVA

23. The Moldovan delegate provided the following information in writing:

"As provided in the first report of Moldova and additionally stressed by the ECSR, according to the Labour Code of the country all workers (including those with at least 5 years of service), who are dismissed because they are unfit for the job, are granted one month's notice of termination of employment and all workers (including those with more than 15 years of service), who are dismissed due to the liquidation of the business or in case of a reduction in the number of staff, are granted two month's notice of termination of employment.

The Labour Code (Article 186) stipulates that workers dismissed due to the liquidation of the business or in case of a reduction in the number of staff may receive one additional month wage if they, in a fortnight term after the dismissal, have applied to the employment agency, have been enlisted as unemployed and have not been employed, confirming that with a corresponding certificate.

Additionally to the above mentioned information on the period of notice laid down by the Code it is worth mentioning that it is only a minimal threshold legally established. The same article of the Labour Code (Article 186, paragraph 5) stipulates that "the individual or collective labour agreement can include other cases of payment of indemnity, its increased sizes, and also longer terms of preservation of wages".

The Labour Code indicates that the dismissed workers also receive an indemnity of one week's pay per year of service, *with a minimum payment equal to one month's wage.* It means that workers with at least 15 years of service receive a payment which totally replaces a notice period for at least three additional months and the workers with at least 5 years - a payment that replaces a notice period for at least one additional month.

According to the Charter, the notice period is to ensure that between the decision to terminate the employment contract and its implementation, the worker concerned continues to earn a wage or, as it is commonly possible, receives a payment equal to the remuneration which would have been due to the notice period."

24. 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§5 – Limitation of deduction from wages

NORWAY

25. The Norwegian delegate said that according to Section 55, No. 3, second paragraph, of the Working Environment Act (WEA) deductions from wages shall be limited to that part of the claim which exceeds the amount reasonably needed by the employee to support himself and his household. The limitation does not directly apply

to deductions from wages that have been stipulated in advance by written agreement between the employer and the employee. However, according to legal theory as well as practice, the statutory limitation will serve as a rule of conduct to the employer and the employee when concluding an agreement on deduction from wages. The Government was not aware of any legal dispute or problems in this respect. Moreover, the trade unions had not brought up this issue in the context of the revision of the WEA which was finished in June 2005.

26. The Committee took note of this explanation and decided to await the next assessment by the ECSR.

Article 8§1 – Maternity leave

BULGARIA

27. The Bulgarian delegate stated that in his view there had been a misunderstanding between the Bulgarian Government and the ECSR ; maternity leave did not have the same meaning in Bulgaria as is used in the Charter. In any event leave was of 135 days duration in Bulgaria, and it was compulsory and could not be relinquished. The next report would clarify this.

28. 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.

FRANCE

29. The French delegate explained the system in France, the system is based on the principle of individual contribution. In order to benefit from maternity benefit a woman had to have worked for 200 hours in the three months preceding her entitlement to leave. Period of unemployment as they are not periods in which the individual contributes cannot therefore be considered as qualifying period for maternity benefit.

30. In practice this does not give rise to significant problems, unemployed women will receive maternity benefit/benefits on the basis of their previous employment contributions. The only group that the rule impacts negatively on is the very small group of women who find work during their pregnancy but do not have the necessary hours. This problem is currently the subject of an in depth study with a view to finding a solution.

31. The Committee noted the intention of the Government to find a solution to this problem and it urged it to do so. It decided to await the next assessment of the ECSR.

LITHUANIA

32. The Lithuanian delegate provided the following information in writing:

"Regarding Article 8§1 a compulsory post-natal period of 6 weeks for a woman to spend with a newborn child is not set.

It is established in Article 17 of the Law "On Sickness and Maternity Social Insurance" and the Regulations Regarding Sickness and Maternity Social Insurance Benefits approved by the Government that:

> *"Maternity benefit is paid to* women for 70 calendar days until the confinement (upon reaching 28 weeks of pregnancy and more) and for *56 calendar days after the confinement* (in case of a complicated confinement and in case more than one child is born – for 70 calendar days after the confinement). The benefit is paid for the whole established period before and after the confinement irrespective of the actual number of days before the confinement."

During the period of entitlement for a maternity benefit, the employer can not force the employee (a woman who has recently given birth) to come to work or assign her any work related activity without her consent.

Still, certain "sanctions" are applied in case a woman who has recently given birth wishes to return to work during the period of her entitlement for a maternity benefit (8 weeks after the confinement). If, during the period of entitlement for a maternity benefit, the afore-mentioned woman will be working in the company from which she left for a maternity leave and be receiving a wage, then the amount of the maternity benefit received during the period when the woman was working and receiving a wage will have to be returned to the SSIF budget.

The discussions are ongoing on this matter in Lithuania. On the one hand, direct prohibition for a woman to choose when to return to work may be considered as a violation of the rights of the individual (Article 48 of the Constitution: "Every person may freely choose an occupation or business …"). On the other hand, Lithuania realizes that it is committed to implement this clause of the Charter. Therefore, this question will be further analyzed when considering the issues related to the discrepancies between Lithuania's legal provisions and the requirements set in the Charter (in the second half of the year 2005)."

33. The representative of the ETUC stressed that also in this case the fact that in practice most women take more than 6 weeks postnatal leave is not sufficient as it might mean that there exist (or can occur in the future) situations whereby women are put under pressure to not take up their leave. He thus suggested that the Committee should strongly urge the Lithuanian Government to bring the situation in conformity in particular as there seems to be no real intention from the Government side to take rapid measures to change the situation.

34. The Committee invited Lithuania to bring the situation into conformity with the revised Charter.

SWEDEN

35. The Swedish delegate stated that the Swedish system of parental leave and benefit as a whole should be considered as well as the situation in practice.

36. The legislation is based on individual rights not obligations. Both parents are entitled to avail of certain rights but are not forced to make use of them. Women's freedom of choice is fundamental and is important in Sweden. Parents are entailed to both paid leave and unpaid leave, either full time or part time. With regard to paid leave parents are entitled to 13 months together. The level of the benefit is 80% of the previous income. The parents themselves decide how the leave will be apportioned between them, however each parent must make use of at least two months leave otherwise the benefit is lost for those months.

37. A woman may make use of the benefit starting two months before the expected date of confinement and both mothers and fathers can make use of the paid leave benefit until the child is 8 years old. Parents are entitled to full leave until the child is 18 months old and have the right to work part time until the child is 8 years old.

38. The Swedish delegate added that according to a study done by the National Social Insurance Institute 99% of women use their parental leave, the remaining 1% are on sick benefit, retirement benefit or died during childbirth.

39. She further stated that there are no problems in practice. The organisation Save the Children considers Sweden to be the best country in the world for mothers.

40. Several delegates stated that the issue was also one of gender equality, it was for women themselves to decide whether and when to take leave.

41. Although there may be indeed only in a few cases women might take less than 6 weeks postnatal leave, the representative of the ETUC invited the Swedish Government to evaluate and analyse these cases to ensure that the reason for taking shorter leave is not for economic reasons. Information on the analysis should be submitted in the next report.

42. The Committee noted that there was no problem in practice, no economic reasons for women to return to work early. It decided to await the next assessment of the ECSR.

Article 8§2 – Prohibition on dismissal

BULGARIA

43. The Bulgarian delegate stated that as a result of the findings of non conformity of the ECSR new legislation had been adopted which provides for the protection of pregnant women not on maternity leave against dismissal and provides for compensation for victims of discrimination without any pre defined upper limit. This information will be provided to the ECSR in the next report on this provision.

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

CYPRUS

45. The Cypriot delegate stated that a dismissal of a pregnant woman or a woman on maternity leave falls within the scope of the Equal Treatment between Men and Women in Employment and Occupational Training Law N.205(I) of 2002.

According to Articles 2 and 11 of this law, such a dismissal constitutes a prohibited direct sex discrimination. Furthermore, Article 16 of the aforementioned law states that, in case of violation of the same law, any provision which sets minimum number of employees to the same employer as a precondition for the liability of the infringer or for the right to compensation or any other remedy shall not be applied.

As a result, Article 3(I) of the Termination of Employment Law which limits the power of the Court to order reinstatement only in workplaces with more than 19 employees, is not applicable in cases of an unfair dismissal of a woman during pregnancy or maternity leave.

This information was not included in the last Cypriot report on Article 8§2. All the relevant documents to reassess the situation will be provided to the ECSR.

Nevertheless, as said under Article 27§3, a technical committee is examining the possibility of amending Article 3 of the Termination of Employment Law so as to provide for the reinstatement of an unfairly dismissed employ to his/her previous position irrespective of the number of employees employed by an employer.

46. The Committee took note of the information and invited the Government to bring the situation into conformity with the revised Charter.

ESTONIA

47. The Estonian delegate provided the following information in writing:

“Pursuant to paragraph 117 of the Employment Contracts Act, upon illegal termination of a contract of employment by an employer, an employee has the right to demand reinstatement in her position, amendment of the statement of the basis for the termination of the contract and payment of his/her average wages for the time of compelled absence from work. If the employee waives reinstatement in his/her position, the employee is entitled to receive compensation amounting to six months’ average wages.

Further, an employee is entitled to claim compensation for damage under the Law of Obligations Act (paragraph 115 and Chapter 7 of Part I) by way of civil proceedings. The amount of compensation for damage claimed under civil proceedings is not limited.”

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.

LITHUANIA

49. The Lithuanian delegate provided the following information in writing:

"Regarding Article 8§2, Article 132 of the Labour Code provides guarantees to pregnant women and employees raising children.

Under paragraph 1 of this Article, an employment contract may not be terminated with a pregnant woman from the day on which her employer receives a medical certificate confirming pregnancy, and for another month after maternity leave, except for the cases specified in Articles 136 (1) and (2) of this Code.

(1) An employment contract must be terminated without notice in the following cases:

1) upon an effective court decision, or when a court judgement whereby an employee is imposed a sentence, which prevents him from continuing his work, becomes effective;

2) when an employee is deprived of special rights to perform certain work in accordance with the procedure prescribed by laws;

3) upon the demand of bodies or officials authorised by laws;

4) when an employee is unable to perform these duties or work in accordance with an opinion of the medical commission or the commission for the establishment of disability;

5) when an employee under 14 to 16 years of age, one of his parents, or the child's statutory representative, or his attending paediatrician, or the child's school demand that the employment contract be terminated;

6) upon the liquidation of an employer, if under laws his labour obligations were not placed on another person.

(2) An employment contract shall expiry upon the death of an employer if the contract was concluded for the supply of services to him personally, as well as when the employer has no legal successor.

Paragraph 2 of this Article establishes that employment contracts with employees raising a child (children) under three years of age may not be terminated without any fault on the part of the employee concerned (Article 129 of the Code).

Moreover, it is stipulated in clause 42 of the Regulations Regarding Sickness and Maternity Social Insurance Benefits that:

> "For a woman dismissed from work during pregnancy or maternity leave due to the liquidation of the company, institution or organization or a bankruptcy proceedings instituted against the company, institution or organization and also in case of the termination of the fixed-duration contract of employment or the term of office or powers of persons specified in the Law of the Republic of Lithuania "On Public Service" and the Law of the Republic of Lithuania "On Remuneration for Work of State Politicians, Judges and Civil Servants" and who has completed the qualifying period of insurance set in clause 38.3 of the Regulations, maternity benefit is paid following the procedure established in clause 39 of these Regulations."

Thus, during this period, a woman in all the cases retains social guarantees."

50. The Committee noted the positive developments and decided to await the next assessment of the ECSR.

Article 8§3 – Time off for nursing mothers

CYPRUS

51. The Cypriot delegate provided the following information in writing:

"In the light of the aforementioned conclusion of the ECSR, the Cypriot Government will bring up for discussion with the social partners the matter of increasing the period for which time off for nursing is permitted, from 6 to 9 months.

This process will be facilitated by the fact that a technical committee appointed by the Labour Advisory Board, is already examing several suggestions amending the Maternity Protection Legislation such as granding longer periods for maternity leave and setting more strict penalties in case of violation of the relevant law.

The same technical committee will include in its agenda the conclusion of the ECSR for consideration and relevant action."

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

Article 8§5 – Prohibition of dangerous, unhealthy or arduous work

LITHUANIA

53. The Lithuanian delegate provided the following information in writing:

"Prohibition to assign to perform dangerous, hazardous or difficult works to pregnant women, women who have recently given birth and women who are breastfeeding.

The Labour Code of the Republic of Lithuania became effective on 1 January 2003 (Official Gazette No. 64-2569, 2002). Article 278 of this Code provides that pregnant

women, women who have recently given birth and women who are breastfeeding may not be assigned to perform work in conditions that may be hazardous and affect the health of the woman or the child. The list of hazardous working conditions and dangerous factors for pregnant women, women who have recently given birth and women who are breastfeeding was approved by the Resolution No. 340 of the Government of the Republic of Lithuania of 19 March 2003 “On Approval of the List of Hazardous Working Conditions and Dangerous Factors for Pregnant Women, Women who have Recently Given Birth and Women who are Breastfeeding” (Official Gazette No. 29-1184, 2003).

It is stipulated in Article 278 of the Labour Code of the Republic of Lithuania (Official Gazette No. 64-2569, 2002) that:

> “2. In compliance with the list of hazardous conditions of work and working environment risk assessment results, the employer must establish the nature and duration of potential effect to safety and health of woman who has recently given birth and breastfeeding woman. Upon assessment of the potential effect, the employer must take necessary measures to ensure that the above risk is eliminated.
>
> 3. Where the elimination of dangerous factors is impossible, the employer shall implement measures to adjust the working conditions so that exposure of a woman who has recently given birth or a breastfeeding woman to risks is avoided. If the adjustment of her working conditions does not result in avoidance of her exposure to risks, the employer must transfer the woman (upon her consent) to another job (working place) in the enterprise, agency or organisation.
>
> 4. Having been transferred to another job (working place) in the enterprise, agency or organisation, the pregnant woman, the woman who has recently given birth or the breastfeeding woman shall be paid not less than her average pay she received before being transferred to another job (working place).
>
> 5. If transferring a pregnant woman to another job (working place) where her and her expected child’s exposure to risks could be avoided is not technically feasible, the pregnant woman shall, upon her consent, be granted a leave until she goes on her maternity leave and shall be paid during the period of extra leave her average monthly pay.
>
> 6. If it is not technically feasible to transfer a woman who has recently given birth or a breastfeeding woman after her maternity leave to another job (working place), where her or her child's exposure to risks could be avoided the woman shall, upon her consent, be granted an unpaid leave until her child is 1 year of age and shall be paid for the period maternity insurance contributions prescribed by law.
>
> 7. Where a pregnant woman, a woman who has recently given birth or a breastfeeding woman has to attend medical examinations, she must be released from work for such examinations without loss in her average pay, if such examinations have to take place during working hours.

> 8. In addition to the general break to rest and to eat, a breastfeeding woman shall be at least every three hours given at least 30-minute breaks to breast-feed. At the mother's request the breaks for breastfeeding may be joined or added to the break to rest and eat or given at the end of the working day, shortening the working day accordingly. Payment for these breaks to breast-feed shall be calculated according to the average daily pay of the employer.
>
> 9. Pregnant women, women who have recently given birth or breastfeeding women may not be assigned to work overtime without their consent.
>
> 10. Pregnant women, women who have recently given birth or breastfeeding women may be assigned to work at night, on days off or on holidays, or be sent on business trips only with their consent. If such employees refuse to work at night and submit a certificate that such work would affect their safety and health, they shall be transferred to day-time work. Where it is not possible to transfer such employees to day-time work due to objective reasons, they shall be granted a leave until they go on maternity leave or child-care leave until the child is 1 year of age. During the period of leave granted before the employee goes on maternity leave she shall be paid her average monthly pay."

On 1 July 2003, the Seimas of the Republic of Lithuania passed the Law No. IX-1672 "On Health and Safety at Work" (Official Gazette, No.70-3170, 2003) where Article 37 provides that:

> "1. A pregnant woman, a woman who has recently given birth or a breastfeeding woman must be provided with safe and healthy conditions of work; they shall have the right to choose to work full or part-time.
>
> 2. It shall be prohibited to assign pregnant women, women who have recently given birth and women who are breastfeeding to perform work that may be hazardous to the health of the woman or the child. The list of hazardous working conditions and dangerous factors for pregnant women, women who have recently given birth and women who are breastfeeding shall be approved by the Government.
>
> 3. In compliance with the lists of hazardous working conditions and dangerous factors, as well as occupational risk assessment results, it shall be obligatory to establish potential risk to safety and health of pregnant woman, woman who has recently given birth and breast-feeding woman. Upon assessment of the potential effect, the employer's representative must take necessary measures specified in Article 278 of the Labour Code.""

54. The Committee noted the positive developments and decided to await the next assessment of the ECSR.

Article 10§5 – Full use of facilities available

NORWAY

55. The Norwegian delegate referred to the dissenting opinion appended to the conclusion of the ECSR on Article 10§5 and the general discussion on Article 12§4 within the Governmental Committee on the occasion of the examination of Conclusions XVII-1 (see the report concerning Conclusions XVII-1, §§ 186-200). She supported, joined by the German delegate, the view expressed in the dissenting opinion that Article 10§5 only regulates student grants, but not regularly paid and universal student allowances.

56. The Maltese delegate stressed that there should be equal treatment with respect to nationals of all Contracting Parties and suggested to call on the Norwegian Government to bring the situation into conformity with the Charter.

57. The Portuguese delegate stated that it would be helpful to know how many students being nationals of Contracting Parties other than members of the European Economic Area are denied financial assistance on the ground that they have not been employed in Norway for at least one year. The Norwegian delegate responded that no such data was available for the time being but could hopefully be provided in the next report.

58. The Committee invited the Government to bring the situation into conformity with the revised Charter.

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

BULGARIA

59. The Bulgarian delegate provided the following information by writing:

“In recent years there has been a steady downward trend in infant mortality rate, which has fallen from 13.3 deaths per 1,000 live births in 2000 to 11.6 in 2004. The infant mortality rate in rural areas remains higher than in cities but however had improved going down from 16.9 deaths per 1,000 live births in 2002 to 15.3 in 2004 as compared to infant mortality rate in towns which has fallen from 12.0 deaths per 1,000 live births in 2002 to 10.2 in 2004.

There are also positive trends in maternal mortality. In 2004 their total was 7, which is a decrease by 10 in comparison to the total for 1999.”

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.

MOLDOVA

61. The Moldovan delegate provided the following information in writing:

"The Republic of Moldova pays substantial attention to the issue of child and maternal health protection, the decrease of the rate of both, child and maternal mortality, being the direct aim of it.

In this respect, Moldova undertakes measures in order to improve the situation. Improvement of the indices mentioned below resulted from implementation of new, evidence-based, technologies and implementation of the national and branch programs such as: National Program for Improvement of Prenatal Medical Care, National Program for Assistance in Family Planning and Protection of Reproductive Health, Program for Promotion of High-Quality Prenatal Care for 2003-2007, "Integrated Approach to Child Diseases" Program, Subproject "Alimentation of children under one year of age" provided for in the National Program "Alimentation of Children", National Program for Implementation of Medical Genetics Service.

As a result during the last five years infant mortality rate and under-5-year-old child mortality in the Republic of Moldova decreased by 33.9% and 34%, respectively, and tends to diminish continuously. Thus, infant mortality in 2004 was 12.1 per 1 000 live births (comparative- 18.3 per 1 000 live births in 2000, 14,7 per 1000 live births in 2002), whereas under-5-year-old mortality was 15.3 per 1000 live births (comparative - 23.2 per 1000 live births in 2000, 18.2 per 1 000 live births in 2002).

The structure of infant mortality by cause of death during 2004 was the following (top 5):

a. congenital malformations, chromosomal abnormalities: 147 cases or 31.7% (3.84 deceases per 1 000 live births):
b. conditions of the prenatal period: 145 cases or 31.2% (3.8 deceases per 1 000 live births);
c. diseases of the respiratory system: 78 cases or 16.8% (3.02 deceases per 1 000 live births);
d. trauma and intoxications: 36 cases or 7.7% (0.9 deceases per 1 000 live births);
e. infectious and parasite diseases: 23 cases or 4.9% (0.59 deceases per 1 000 live births).

No cases of death of children under 5 years old caused by food intoxication were registered.

Maternal mortality rate was decreasing during the last five years and constituted 23.5 per 100,000 live births in 2004 (comparative 27.1 per 100,000 live births in 2000, 28,0 per 100,000 live births in 2002). The World Health Organization estimates this as a low level of maternal mortality.

An evolution of the situation on this point may be attested in Moldova and the intention to redress it further is quite visible. In this regard, it is worth mentioning that the reduction of the rate of child and maternal mortality is listed as one of the most

relevant indicators to be improved by the year 2006 according to the *Economic Growth and Poverty Reduction Strategy Paper (2004-2006*) which is clearly linked to reaching sufficient progress towards the achievement of the *Millennium Development Goals* by 2015.

Along with indicative targets for successful progress by 2015 the reduction of child and maternal mortality might be found. So the goals are to:

- reduce the under-5 year-old child mortality rate from 18,3 (per 1000 children) in 2002 to 8,4 in 2015;
- reduce the infant mortality rate from 14,7 (per 1000 new-born) in 2002 to 6,3 in 2015;
- reduce the maternal mortality rate from 28,0 (per 100.000 births) in 2002 to 13,3 in 2015."

62. The Committee noted the positive developments and decided to await the next assessment of the ECSR.

ROMANIA

63. The Romanian delegate provided the following information in writing:

"State of play of mental health policy and practice, including ill-treatment in psychiatric hospitals.

Activities accomplished by the Ministry of Health:

– order 728/10.06.2004 regarding the commission for implementing the memorandum has been elaborated;
– the criteria for evaluation and identification of the reasons for internship in the hospitals and departments of psychiatry were elaborated;
– evaluation committees were set up with the participation of representatives of the public health directorates, psychiatry physicians and physicians nominated by the university centers of Bucharest, Iasi, Craiova, Targu Mures, Cluj, Timisoara;
– at present the assessment of the patients in counties of Vrancea, Galati, Braila, Vaslui, Iasi, Buzau has been completed. The interministerial commission evaluated patients with compulsory internship from Sapoca Hospital of Psychiatry and a number of 63 patients were proposed to be discharged to the penal court;
– for the rest of the security hospitals the evaluation will take place periodically and will be done by the county commissions, as provided by the methodology for the security measures;
– orders for changing the name of three hospitals, respectively Poiana Mare, Zam and Gataia, to psychiatry hospitals; those hospitals will not further admit patients with mandatory admittance, as provided by Articles 114 and 105 of the Penal Code;
– the draft Government Decision on the transfer of the administration of the above-mentioned hospitals to the county councils and in the subordinance of the county public health directorates was elaborated;

– the Government Decision 839 / May 27, 2004 on increasing the value of food allowance for the psychiatric patients up to 70,000Lei (2€) / day was approved;
– the sum of 4,5 billion Lei (125,000€) for the Poiana Mare Psychiatric Hospital for rehabilitation of the infrastructure in order to provide decent hospitalizing conditions was allocated;
– necessary inquiries to complete the list of free and compensated medicines for the ambulatory treatment were done;
– supplementary funding for specific psychiatric therapies and alternative therapies (occupational therapy and ergotherapy), (through the Subprogram 2.5/2005) was allocated.

Ongoing activities:

– modifying legislation:
  - Ministers' Council Decision 1210 / 1970 regarding the ergotherapy activity;
  - law 487 / 2002 regarding the mental health and the protection of the persons with mental disorders;
– supply Medical emergency equipment to Poiana Mare Psychiatric Hospital and other psychiatric hospitals for the first aide in case of emergency;
– elaboration of the criteria for in-place accreditation of the physicians and the modalities for training them in order to ensure proper staffing with specialist physicians of the psychiatry units;
– intensive psychiatry training courses for family physicians;
– elaboration of therapy guidelines by the Psychiatry Commission of the Ministry of Health.

International cooperation:

– one is the Phare project: "Improving the monitoring and evaluation capacity of mental health status in the system of mental health care services". The main objective is to include the mental health monitoring system together with the monitoring system for cardiovascular disease, cancers, and diabetes. The team of Phare project experts who is implementing the project, proposed to the Ministry of Health the methodology for periodic monitoring of the mental health of general population, according to European Union recommendation;
– the second important project is a Twinning Light which main objectives the following:
  - to improve the legal framework in the field of those as mental health;
  - implement a training system for the staff engaged in medical care services;
  - elaborate an action plan to continue the implementation of the Government Memorandum.

Poiana Mare Psychiatric Hospital:

Following the recommendations made by the CPT and the Ministry of Health, on 31 March 2005 a commission made an inspection at the Poiana Mare Psychiatric Hospital. The commission was composed of representatives of the Ministry of Health, Ministry of Justice, Commission of Psychiatry, Romanian College of Physicians and the Dolj County Public Health Directorate. The commission acknowledged the

general improvement of the conditions, compared to previous inspections and made recommendations. The following are based on the inspection report.

An evaluation of the medical and emergency care needs was performed. There are 7 general practitioners. The hospital was equipped with an emergency kit. The radiology department has no specialty physicians. There is a 5th year radiology resident with secured position and he will start to work effectively within the hospital after obtaining the specialty qualification.

An analysis of the death causes revealed that during 1 March 2004 and 30 March 2005 there were 23 deaths, of which 14 of medical causes (myocardial infarction, bronchopneumonia, haemmorhagic pancreatitis, renal stones and glomerular nephritis, stroke and tuberculosis), without being clear why the patients were not transferred to a medical or surgical clinic. The number of deaths due to choking is surprisingly high (7).

The food allocation increased from 50,000ROL (1.40€) to 70,000ROL (2€) leading to an improved caloric intake and increased food diversity. The patients receive meat and sweets every lunch meal. Recommendations were made to add fruits, salads and meat other than pork. Special diets are respected according to the medical indications.

The personnel were trained with regard to forbidden mal-treatments to the patients. However, to date the safety measures do not fully comply concerning specialty personnel and training.

There are 5 psychiatry physicians, 3 5th year residents and 7 general practitioners. Increasing the number of specialty physicians is difficult because of lack of attractiveness of the positions. A nurse and a caretaker on each floor and a physician on duty cover afternoons and nights for the whole hospital.

No dentist was employed to date.

The psychiatry physicians in the hospital carried out the last specific training for the medium and auxiliary personnel in 2000. Additional classes were provided regularly by the “Care” British NGO (director Dr. Jim Bigley).

There is no qualified occupational therapist. There is a tailor who instructs patients in the workshop. In 2000 the teachers of the High School of Art in Craiova instructed 10 nurses in painting, drawing and clay modelling, and the nurses are working in these fields with the patients.

The living conditions were much improved. The thermal insulation was done in the majority of areas, the bathrooms were rebuilt, and they are clean and well mentioned. The laundry is clean, but partly holed by the bleach; cleaning and disinfecting materials are available. The heating is good; hot water is available for showering. The light in the rooms is good. The number of beds in each room was reduced however there are no 7 sqm for each bed, as provided by the Order of the Minister of health 713/2004. Not all patients have individual bedside shelves and existing ones are old and degraded. Not all patients have soap, towels, toilet paper and a tooth

brush. Monitoring rooms contain dangerous objects (nails, sharp wood fragments). The kitchen is modernizing.

Order of the Minister of health 784/2004 and notifications O.B. 6259 / A.N. 20169 / 2004 forbids the admittance of the patients under Article 114 Penal Code, re-assessment of those already admitted, proposals to the court concerning the discharge or transfer for the patients not suitable for discharge. However, the hospital management admitted 8 patients under Article 144 between July 2004 – March 2005, court orders for discharging the patients under Article 113 and a patient is admitted without judicial file, court order, consent or up-take from police custody. The measures for preventing hetero- and self-aggressive behavior were not fully implemented. The patients' rights are displayed in well-seen places, but there are no brochures available for patients and relatives."

64. The Committee noted the positive developments announced and decided to await the next assessment of the ECSR.

65. The Romanian delegate said that the trend in the infant mortality rate between 1990 and 2003 had been downward, from 26.9 deaths per 1,000 live births in 1990 to 16.7 in 2003. There had been a slight rise in the rate between 2003 and 2004 (16.7 and 16.8 deaths per 1,000 live births respectively). The greatest number of deaths occurred in rural areas and were partly accounted for by women becoming mothers after the age of 40. There was a high correlation between infant mortality and low education levels among mothers.

66. There had also been a downward trend in maternal mortality, from 0.83 deaths per 1 000 live births in 1990 to 0.33 in 2004 and 0.24 in 2004. The factors mentioned above also helped to explain the high rates of maternal mortality.

67. The Romanian delegate described the measures introduced under the third national women's and children's health programme, which started in 2001. The programme aimed to increase the use of family planning and the number of women supervised by a doctor during the first three months of pregnancy, improve the standard of care before and after delivery and the diet of new babies, establish social services in obstetric units, reorganise maternal and neonatal care units in accordance with European Union standards and improve access to health for vulnerable persons. Since the funds allocated to health had fallen since 2002, the health minister had identified improved use of the third national programme funds, support to obstetric hospitals to develop well equipped neo-natal departments and the strengthening of paediatric services at all levels as priorities for 2005-2007.

68. The representative of the ETUC stressed the importance of reducing infant and maternal mortality rates.

69. The Committee welcomed the steps taken by Romania, which had helped to reduce the infant and maternal mortality rates, and asked the Government to continue its efforts to bring them down.

Article 14§1 – Provision or promotion of social services

LITHUANIA

70. The Lithuanian delegate provided the following information in writing:

"Compliance of draft provisions of the Law on Social Services with Article 14§1 of the European Social Charter (revised).

Currently applicable Law on Social Services (1996) provides that the right to social services shall be held by citizens of the Republic of Lithuania and citizens of other states and individuals without citizenship, who have a permit of permanent residence in the Republic of Lithuania. Under sub-paragraph 9 of Article 53 of the Law of the Republic of Lithuania No. IX-2207 of 29 April 2004 "On the Legal Status of Aliens", an alien may be issued a permanent residence permit, if the alien has been living in the Republic of Lithuania for a continuous period of the last 5 years holding a temporary residence permit.

It is stipulated in the draft provisions of the new Law on Social Services (it is planned to submit the draft for consideration in the spring session of the Seimas of the Republic of Lithuania) that the right to social services shall be held by:

1) citizens of the Republic of Lithuania;

2) aliens, including individuals without citizenship, who have a permit of permanent or temporary residence in the Republic of Lithuania;

3) other persons, in cases provided for in the international treaties of the Republic of Lithuania.

According to the above given wording, the condition regarding the requirement for an alien to reside in the Republic of Lithuania for at least 5 consecutive years and only then be entitled to social services will be removed."

71. The Committee noted the positive developments announced and decided to await the next assessment of the ECSR.

Article 15§2 – Employment of persons with disabilities

NORWAY

72. The Norwegian delegate confirmed that new legislation entered into force outside the reference period, providing for a more comprehensive protection from discrimination in employment on grounds of disability.

73. The Committee noted with satisfaction the entry into force of the new legislation which aims at bringing the situation into conformity with the Charter. It decided to await the next assessment of the ECSR.

Article 17§1 – Assistance, education and training

ESTONIA

74. The Estonian delegate provided the following information in writing:

"Pursuant to paragraph 31(1) of the Child Protection Act, every child shall at all times be treated as an individual with consideration for his/her character, age and sex. It is *prohibited to humiliate, frighten or punish the child in any way which abuses the child, causes bodily harm or otherwise endangers his/her mental or physical health*. If an adult treats a child in a prohibited manner, the social services departments are competent to intervene in order to resolve the conflict, and if necessary, to apply for punishment of the person at fault under administrative or criminal procedure [paragraph 31(2)].

Paragraph 121 of the Penal Code provides that causing damage to the health of another person, hitting, beating, or other physical abuse which causes pain, is punishable. paragraph 122 of the Code sets forth punishment for torture (continuous physical abuse or abuse which causes great pain) and paragraph 118 thereof provides for punishment for causing serious damage to health.

Proceeding from the above, under the Child Protection Act and the Penal Code, physical punishment of children is not allowed in Estonia. However, the new Child Protection Act will seek to explicitly prohibit the physical punishment of children. The new Act must be approved by different social groups, the Government and the Parliament. The bill is under preparation, but the date of its passage is not known for the time being.

Reduction in corporal punishment of children is very much dependent on the awareness of people and a campaign against physical punishment of children will be carried out next year as well as family training sessions in order to improve the knowledge and skills of parents in raising a child."

75. The Committee noted the positive developments announced and decided to await the next assessment of the ECSR.

FRANCE

76. The French delegate provided the following information in writing:

"Excessive length of pre-trial custody

This is the first time that the conclusion has been negative, possibly because the ECSR has reacted to certain changes in the legislation.

Two recent laws have amended the 1946 ordinance on criminal justice for young persons:

- the Act of 9/9/2002, to improve criminal measures aimed at young persons by replacing or modernising them;

- the Act of 9/3/2004, which has two objectives: to make the relevant institutions more specialist and to make it possible to combine an educational measure with a sentence.

The two acts retain the basic principle of the 1946 ordinance, which is to give priority to educational measures.

In the case of the most serious offences, for which remand in custody is requested, the 2002 Act provides for rapid referral for trial. Thus, when offences carry a sentence of 3 to 5 years for those aged 16 and over and 5 to 7 years for those aged under 16 the state prosecutor may order a young person to appear directly before a juvenile court for trial within 10 days to a month, for those aged 16 and over, and within 10 days to two months for those aged under 16.

Naturally, if the juvenile court considers that a case cannot yet be heard, for example because information is lacking, it may be deferred to a subsequent hearing not more than one month later.

It is clear therefore that the cases of two years' remand in custody of which France is accused are extremely rare, concern serious offences and reflect the time needed to investigate them. Unfortunately, there is a lack of detailed figures on the matter but the matter is under discussion at the ministry.

It also emerges from available statistics that the average length of pre-trial custody for young persons fell from two months and six days in 2001 to two months and four days in 2002.

Finally the average length of custody for young persons serving sentences fell by nine days, from six months nine days in 2001 to six months in 2002."

77. The Committee noted the positive developments and decided to await the next assessment of the ECSR.

78. The French delegate said that the Criminal Code provided for aggravated penalties for violence against young persons of 15 or under by their legitimate, natural or adoptive parents or grandparents or any other person exercising authority. There were also numerous provisions for children who were ill treated or at risk. However, France did not intend to introduce a general ban on corporal punishment.

79. The representative of the ETUC said that if France did not intend to make the necessary changes to the law the next report had to show that the situation was compatible with the Charter in practice. To do so, it must include statistics on parents who had been convicted for violence against their children and the number of parents dealt with by the social services.

80. The Committee regretted the absence of planned measures and asked the Government to supply statistics to enable the ECSR to assess the situation in practice.

LITHUANIA

81. The Lithuanian delegate provided the following information in writing:

"On application of corporal punishment in the family

In Lithuania, violence (application of corporal punishment or any other type of violent behaviour) against children is intolerable and prohibited irrespective of place of manifestation of such behaviour - in the family, at school or anywhere else.

Legal base and its improvements.

Criminal liability for hitting or brutally torturing the minors and similar behaviour is provided in paragraphs 2 and 4 of Article 117 of the Criminal Code of the Republic of Lithuania. Under Articles 181, 181¹, 181² of the Code of Administrative Infringements of the Republic of Lithuania, administrative liability is provided for not using parental authority or for using it contrary to the interests of a child. Article 3.180 of the Civil Code provides for restriction of parental authority, if the parents abuse their parental authority or treat their children cruelly.

The concept of "violence" also covers the application of corporal punishment in the family, but there is no such concept as "application of corporal punishment in the family" explicitly singled out in the legal acts. There is no separate law against violence against children.

In 2006, under the Plan for the Implementation Measures for the State Policy Strategy regarding Child Welfare for 2005-2012 adopted by the Government of the Republic of Lithuania on 17 February 2005, it is planned to prepare the draft law amending the Law of the Republic of Lithuania on Fundamentals of Protection of the Rights of the Child, where the application of corporal punishment in the family could be singled out.

Information campaign against violence against children.

Not only the legal base is being improved but also a negative attitude of the society towards violence against children is being formed. The Ministry of Social Security and Labour each year organises a campaign "May – a month without violence against children" seeking to educate the society to assume responsibility for each and every child and to be intolerant towards the people acting violently, to create the atmosphere in the society that would be intolerant to violence and coercion, to educate the people about the violence that the children are suffering and the outcomes of such violence, to promote the initiative and independence of children and to promote and teach how to solve conflicts without using violence. During this campaign, a number of events, presentations of various surveys and discussions with specialists about the violence against children and also about the violence of

children against the grown-ups, as well as considerations about the law prohibiting to beat children are taking place."

82. The Committee noted the positive developments and decided to await the next assessment of the ECSR.

MOLDOVA

83. The Moldovan delegate provided the following information in writing:

"First ground of non conformity

In addition to the information provided already are some more legal acts which prohibit the corporal punishment of children:

The Criminal Code of the Republic of Moldova (23 July 2002) contains a separate chapter „Violation against family and minors" which provides for rendering minors free of punishment. The Code on sanctions execution of the criminal law (23 July 1993) stipulates that fire arms are not used, as an exceptional measure for minors. The new Code (24 December 2004) stipulates that for nursing women, pregnant women and mothers with children under the age of 3, are established special rooms and crèches.

The Law on Education stipulates the fact that the educational staff is obliged "to ensure life safety and health protection of children within the process of education".

The Family Code stipulates that the judicial instance can pronounce the parent deprived of his parental rights, if "he shows" rude behaviour towards his children, resorting to physical or psychical violence, attacks the sexual inviolability of the child", if there have been premeditated violations against the life and health of the child"

The Code on administrative contraventions (1985) stipulates in Article 170 that "the violations of the legitimate children's rights and interests, expressed through abusive behaviour, insults and ill treatment of any kind, physical and psychological violence – leads to the imposture of penalty up to twenty five minimum salaries.

As a proof that Moldova undertakes measures in order to prevent and to combat family violence, a draft Law on this issue has been recently elaborated. The draft prohibits all forms of corporal punishment of children, nominates the authorities in charge with the prevention of family child violence, defines their competences and lays down the range of services provided to victims of violence. The competences include the protection of the right of minors – victims of the violence as well. The mentioned draft provides the mechanism for solving the acts of violence in the family, the procedure for lodging the complaints, the procedure for their examination, the interdiction measures (Chapter III, Articles 16-20) and sanctions for aggressor. The abovementioned draft has been elaborated with the support of all governmental and non-governmental structures in charge with this issue.

Second ground of non conformity

The Republic of Moldova is fully aware of the fact that education is one of the main components of development process. Strategic orientation of the reform in the field of education, and especially the implementation of the Law on Education, has been strongly reflected in the State Program on Development of education for 1999-2005 (26 October 1999), in the National Conception on child and family protection (23 January 2002), other legal acts. The problems linked to the enrollment in primary school and the dropout from school is paid special attention in the efforts made by the country in redressing the situation. The undertaken actions focus on the liquidation of the factors generating the low rate of enrolment and the high dropout rate from school. Among them are the limited investments in the education system; the worsening of the human capital in the field; the refusal of high skilled professional staff to stay within the system due to low payment; out of date institutional framework; the discrepancies between rural and urban regions, even lack of primary schools in some of rural ones; the emigration of parents for work abroad with the consequent leaving of the children in the care of the grandparents in the best cases.

With the aim to redress the situation Moldova has elaborated the Poverty Reduction Strategy (26 May 2004), the Strategy "Education for everybody" (15 April 2003), National Plans for both Strategies, alongside with other national policies aimed to solve the existing problems and to offer adequate protection to the citizens.

Thus the major objectives that are stipulated provide for:

– the increase of the rate of pre-school enrollment for children aged 3-5 by 2007 up to 75% and for children aged 6-7 up to 100%, as well as the decrease by 5% in the same period of time of the discrepancies between the rural and urban areas, disadvantaged groups and categories with an average income through the:
  - increasing of access to education services, especially for children from vulnerable families;
  - systematic improvement in the quality of educational services rendered;
  - raising the efficiency of financial, human and material resources management;
  - optimising the network of rural educational institutions;
  - providing training to management;
  - promoting economic reforms aimed to keep citizens home by offering them decent work and wages."

84. The representative of the ETUC noted that the reason for children dropping out of schools are to be found in lack of money for parents to buy clothes and shoes and hoped that the Government would also take measures to address this problem.

85. The Committee noted the positive developments and decided to await the next assessment of the ECSR.

ROMANIA

First ground of non conformity

86. The Romanian delegate told the Committee that new legislation had been enacted in 2003 to prevent and combat domestic violence.

87. The Committee congratulated the Government on the new law, which brought the situation into conformity with the revised Charter.

Second ground of non conformity

88. The Romanian delegate gave an explanation as to the low rate of attendance in secondary schools. First of all, she underlines that a considerable number of pupils have attended vocational training. Furthermore, she notes that in 2002-2003 schoolyear, the 9th and 10th grades were not yet compulsory. Finally, the Romanian delegate explains that for the age group 15 to 18 years, 31% of pupils from urban areas and 64% of pupils from rural areas were not enrolled in high school education. As regards post secondary education (covering vocational training), the non-enrolment rate of pupils is much lower: 6% of urban pupils and 31% of rural pupils .

89. In answer to the Chair and the representative of the ETUC, who pointed out that the Romanian delegate had previously announced the introduction of measures to deal with the problem of non-compliance with the requirements of compulsory schooling, the Romanian delegate said that the report had supplied figures relating to the point on which the ECSR had raised objections. The next report would include information on programmes and measures that had been introduced.

90. The Albanian delegate and the representative of the ETUC expressed concern about the situation. However, the former noted that the Romanian authorities were making serious efforts with a view to their accession to the European Union and drew attention to the progress already achieved.

91. The delegates of Greece, Ireland and Italy and the representative of the IOE thought that Romania should supply detailed and up-to-date information in its next report to enable the ECSR to assess the situation.

92. The Committee recorded its concern about the problem of absenteeism and invited the Government to supply facts and figures in its next report on the steps taken to deal with this problem.

SLOVENIA

First ground of non conformity

93. The Slovenian delegate said that draft legislation on the prevention of violence would ban corporal punishment in the family. The proposed legislation was a priority for the family affairs directorate and was expected to come into law in 2005 or 2006 at the latest.

94. The representative of the ETUC said that the Slovenian authorities should be encouraged to enact such legislation.

95. The Committee noted that the proposed legislation brought the situation into compliance with the revised Charter and asked the Government to enact it as rapidly as possible.

Second ground of non conformity

96. The Slovenian delegate said that since 2003-2004 special classes for Roma children had been banned at all levels of education. The education ministry had a strategy to integrate these children into the normal school system.

97. The Committee noted the ban on special classes for Roma children and the measures being taken by the Government to integrate these children into the normal school system.

Article 17§2 – Free primary and secondary education – Regular attendance at school

BULGARIA

98. The Bulgarian delegate provided the following information in writing:

"In order to solve the problem with students dropping out of school in 2000 and 2001, the Ministry of Education and Science (MES) formed specialized units in the shape of centers for educational services and training. These used to function in twelve regions of the country. The subject of their activity used to include working with students in danger of dropping out or who have already dropped out of school, as well as organizing professional orientation and consultation for students and their parents.

In 2004, the centers for educational services and training, the houses for teachers' professional and creative development and the centers for foreign language education were reorganized into a National Pedagogical Center with 28 regional units in order to improve their functioning and to expand their network to cover all regions of the country. The main directions in the activity of this service unit are working with students in danger of dropping out or who already have dropped out of school and training of teachers. This way all regions of the country received MES service units whose priority activity covers the implementation of specific initiatives related to the adaptation of children to the studying process, to decreasing the number of students dropping out of school and to providing equal access to quality education for children of different ethnic groups.

The introduction in the 2003-2004 school season of the mandatory attending of a preparatory group and grade in kindergartens and schools is also a positive step towards the prevention of dropping out of school. This step is especially beneficial for the children of the Roma and Turkish ethnic minorities as pre-school education gives

them the opportunity to make a habit of studying and to master the official Bulgarian language.

Up until the 2004-2005 school season, the MES provided free textbooks and school appliances for all children subject to mandatory studies in a preparatory group in kindergarten and in a preparatory and first grade in school. For the 2005-2006 school season, free textbooks will also be provided for all the students in second, third and fourth grade."

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

100. The Bulgarian delegate stated that the number of special schools for Roma children had dropped. He also mentioned a number of new initiatives taken such as the adoption of a national plan to integrate Roma children with special needs in the education system. A provision has been taken for a new education method to integrate children with disabilities. Measures have been taken in the Framework Programme of National Minorities. The Government adopted a strategy in 2004 on placing minority children in mainstream education. Many other projects have been initiated to bring the situation into conformity. In reply to the representative of the ETUC, the Bulgarian delegate indicated that most of the projects are new initiatives. The delegate stated that most issues concerning Roma required long term solutions.

101. The Estonian delegate expressed her surprise that Roma children who are not mentally disabled were placed in schools for children with mental disabilities.

102. The Bulgarian delegate replied that legislation gives the criteria which makes it possible to place such children with the mentally disabled. He stated that there is a project to tackle this issue set up in a few towns and it will soon be extended to other towns.

103. The Committee urged the Governement to bring the situation into conformity with the revised Charter.

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

FRANCE

104. The French delegate provided the following information in writing:

"The 2004 report on Article 18§1 simply gave the total number of work permits issued to nationals of States Parties to the Charter.

The reason is simply that currently there is a lack statistics on the proportions of work permit applications granted and refused, both for initial applications and for renewals.

This is an interesting subject and the Government is convinced of the importance of such figures.

As indicated, means of producing such an analysis are currently developing. It will be based on information from local directorates of labour, employment and vocational training (DDTEFPs). This should enable us by early 2007 to supply more detailed information on work permits issued to nationals of States Parties to the Charter."

105. The Committee noted the positive developments announced and decided to await the next assessment of the ECSR.

Article 18§3 – Liberalising regulations

SWEDEN

106. The Swedish delegate provided the following information in writing:

"In February 2004 the Swedish Government appointed a special inquiry on labour immigration. This inquiry consists of representatives of all parties in the Swedish parliament. The task of this inquiry is to study how the rules on labour immigration and work permits should be liberalised. The inquiry will give its first report on 31 May 2005 and the final report will be presented on 1 March 2006. The final report will contain proposals on legislative changes concerning labour immigration and work permits. The Swedish Government is waiting for these proposals before announcing any changes to the legislation."

107. The Committee noted the positive developments announced and decided to await the next assessment of the ECSR.

108. The Swedish delegated informed the Committee that in February 2004 the Swedish Government appointed a special commission with the task to perform an inquiry on labour immigration involving representatives of all parties in the Swedish parliament. The task of this inquiry is to study how the rules on labour immigration and work permits should be liberalised. A first report on the inquiry was issued on 31 May 2005 and the final report is expected for 1 March 2006. The report is supposed to contain proposals on legislative changes concerning labour immigration and work permits. The Swedish delegate announced that detailed information on new, liberalised rules on labour immigration will be presented in the next report.

109. The Committee took note of the inquiry on labour immigration currently carried out and decided to await the next assessment of the ECSR.

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

CYPRUS

110. The Cypriot delegate provided the following information in writing:

"The Government of the Republic of Cyprus acknowledges that the current status regarding the termination of employment during the period of probation remains as it is described by the conclusion of the ECSR. In order to achieve full conformity with

Article 24 of the Charter, the Government commits itself to bring the aforementioned conclusion to the attention of the social partners with a view to examine whether to amend the relevant law."

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

Article 25 – Right of workers to the protection of their claims in the event of the insolvency of their employer

BULGARIA

112. The Bulgarian delegate stated that a new law had been adopted in April 2004, the Code of Protection of Workers, which provides for a guarantee fund. Furthermore, ILO Convention 173 has been ratified. Full information and the text of the law would be provided in the next report.

113. The Committee noted with satisfaction that a new law had been adopted and decided to await the next assessment of the ECSR.

Article 26§1 – Sexual harassment

MOLDOVA

114. The Moldovan delegate provided the following information in writing:

"Taking into account the fact that the current legislation of the Republic of Moldova, as it was rightly noticed by the ECSR, does not contain the notion of sexual harassment, a new draft of *Law regarding the assurance of equal opportunities for women and men* has been elaborated with the support of governmental and non-governmental institutions. Alongside the main notions on the issue, Chapter 1 is defining the notion of *Sexual harassment* - as "any *verbal, non-verbal or physical conduct of sexual nature which impairs the dignity of the person or creates a hostile, humiliating and insulting atmosphere"*.

Chapter III "Assurance of equal opportunities for women and men in social-economic field" promotes a range of obligations for the employer, among which is the request for "undertaking measures to prevent sexual harassment of women and men at the work place and to prosecute them in the case of lodging complaints of discrimination on grounds of sex" (Article 11); The same article stipulates that "The necessary measures to ensure gender equality at the work place have to be included in the collective contracts and agreements, as the employees and employer's responsibilities."

The abovementioned draft also includes important definitions as *Discriminatory actions of the employer* (Article 12) and *Groundless refusal to employment* (Article 13). Chapter V establishes the Procedure of petition investigation. Chapter VI deals with the Liability for discrimination on the grounds of sex. Article 26 specifies „The

subjects of juridical relations that have been found to have violated the provisions of the legislation on gender equality or committed any discriminatory acts on grounds of sex, bear civil, administrative and criminal liability according to the legislation." Of a real importance is the proposal of the compensation for sexual prejudice, which is stipulated in Article 27. It underlines the right of the person discriminated on the ground of sex to compensation, establishes an amount for it, the body in charge with the examination of alleged discrimination and the fact that compensation payment doesn't free the person who has committed the discriminatory act from the responsibility to eliminate the discriminatory situation.

Chapter VII obliges the Government to present to the Parliament recommendations in order to bring the legislation in force in conformity with the Law, within 3 months since the date of its adoption and to elaborate and adopt the normative acts necessary for the implementation of the present Law within 6 months. This will provide an effective protection of employees against sexual harassment, allowing the country to comply with the Charter on the issue."

115. The Committee noted the positive developments announced and decided to await the next assessment of the ECSR.

Article 26§2 – Moral harassment

MOLDOVA

116. The Moldovan delegate provided the following information in writing:

"Additionally to the information provided in the first report, some more details confirmed the effort made by Moldova in guaranteeing workers the right to dignity at work and in connection with work.

In this respect the Article 16 of the Civil Code by defining the notion of the" Protection of honor, occupational dignity and reputation" stipulates that:

a) any person has the right to respect, honor, professional dignity and reputation;
b) any person has the right to contest the misinformation affecting his honor, professional dignity and reputation, if the person disseminating it does not provide proofs to it;
c) on the request of person concerned, the protection of honor and dignity is admitted even after his death;
d) if the information affecting the honor, professional dignity and reputation of a person is disseminated by mass media, the judicial instance forces it to publish a contest of the misinformation in the same mass media source, same column, page, program or cycles of programs, not later than 15 days, from the date the judiciary Resolution comes into force;
e) if a document issued by an organisation affects the honor, professional dignity and reputation of a person, the judiciary body forces the replacement of the document;

f) in cases others than those mentioned above, the way and means of contesting the information affecting the honor, professional dignity and reputation is settled by the judiciary body;
g) any person, affected by misinformation, regarding his/her honor, professional dignity and reputation, has the right to contest the case and to ask for compensation for the prejudice caused.

On the same issue „The conception on manpower policy in the public service" (18 July 2002) defines notions like "professional career", "qualification degree", "activity's evaluation". It stipulates that a new system on professional career of public servants has been introduced, based on the non-discriminatory and transparency principles, which has to assure the worker an equal, nondiscriminatory treatment". In the same context, public servants have the right to contest the decisions linked to their professional career.

Additionally some other legal regulations promoting the principle of human dignity, including the professional one: "The regulation on professional orientation and physiological support in the career issues" (14 May 2002), "Governmental Decision on vocational training of public servants" (06 August 2004)."

117. As a general remark, the Dutch delegate suggested to replace the notion of "moral harassment" by the expression "harassment other than sexual harassment".

118. The representative of the ETUC noted the information provided by the Moldovan delegate on the stipulations contained in the Civil Code and regarding the regulations applying to the public service. He encouraged the Moldovan Government to provide corresponding information on provisions applying to the private sector.

119. 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 27§1 – *Participation in professional life*

LITHUANIA

120. The Lithuanian delegate provided the following information in writing:

"Working time

It was provided in paragraph 1 of Article 46 "Part-time Work" of the previous version of the Law of the Republic of Lithuania "On Health and Safety at Work" (effective until 15 July 2003) that part daily working time or part weekly working time shall be set by agreement between the employee and the employer.

Under paragraph 2 of this Article, the employer had to set part daily working time or part weekly working time upon a request of a pregnant woman, a breastfeeding woman or a woman who has recently given birth; a woman raising a child (children) until it reaches fourteen years of age or a child with limited functional capacity until it reaches sixteen years of age; a father solely raising a child (children) until it reaches

fourteen years of age or a child with limited functional capacity until it reaches sixteen years of age and also a foster-father or a foster-mother raising a child (children) until it reaches the above-mentioned age; a person with limited functional capacity; an employee nursing a sick member of his family, according to the conclusions of a health care institution on the necessity of working part-time work and the duration of the period of effective part-time work.

In pursuance of clause 4 of the Plan for the preparation of draft laws and other regulatory acts that had to be harmonised with the Labour Code of the Republic of Lithuania approved by Resolution No. 1189 of the Government of the Republic of Lithuania of 19 July 2002 “On the Approval of the Plans for the Implementation of the Labour Code of the Republic of Lithuania”, the provisions of the effective Law of the Republic of Lithuania “On Health and Safety at Work” were specified against the provisions of the respective Articles of the Labour Code of the Republic of Lithuania (Official Gazette, No. 64-2569, 2002).

In the process of harmonisation of the provisions of the effective Law of the Republic of Lithuania “On Health and Safety at Work” with the provisions of the Labour Code, the following items were removed from the Law: Part II “Organisation of Working Time and Rest Period” because the provisions of Articles of Chapter XIII “Working Time” and Chapter XIV “Rest Period” of the Labour Code of the Republic of Lithuania regulate the working time and the rest periods and also the discriminatory provisions laid down in the Law “On Health and Safety at Work” that were restricting the rights of men (fathers) - only those men who were solely raising a child could request the employer to shorten the working day - were removed.

Under paragraph 1 of Article 146 “Part-time work” of the new Labour Code, effective as of 1 January 2003, Part daily working time or part weekly working time shall be set:

1) by agreement between the employee and the employer;

2) by request of the worker due to his/her health status in accordance with conclusions of medical institution;

3) on request of a pregnant woman, a woman who has recently given birth (mother who submits to the employer a certificate of a health care institution confirming that she has given birth, and who raises a child until it reaches one year of age, hereinafter referred to in the Code as a woman who has recently given birth), a woman who breastfeeds (mother who submits to the employer a certificate of a health care institution confirming that she raises and breast-feeds her child until it reaches one year of age, hereinafter referred to as a woman who breastfeeds), an employee raising a child until it reaches three years of age, as well as an employee who solely raises a child until it reaches fourteen years of age or a child with limited functional capacity until it reaches sixteen years of age;

4) on request of an employee under eighteen years of age;

5) on request of a person with limited functional capacity according to the conclusions of a health care institution;

6) on request of an employee nursing a sick member of his family, according to the conclusions of a health care institution.

Under paragraph 2 of the above-mentioned Article, it is stipulated that unless otherwise provided for in the conclusions of a health care institution, part-time work may be by agreement established by decreasing the number of working days per week or shortening a working day (shift), or doing both. Part-time work during a working day may be divided into parts. Other conditions related to the procedure of establishing part-time work and duration thereof shall be set by the Government.

Under paragraph 3 of the above-mentioned Article, it is established that part-time work shall not result in limitation when setting the duration of annual leave, calculating the length of service, promoting an employee, improving qualification, as well as shall not limit other labour rights of the employee. Employees shall receive payment in proportion to the time of work or by result.

Moreover, it is set in sub-paragraph 4 of paragraph 1 of Article 2 “Principles of Legal Regulation of Labour Relations” of the labour Code that principles applied to labour relations connected with the exercise and protection of labour rights and performance of obligations established in legal acts include the following principle: equality of subjects of labour law irrespective of their gender, sexual orientation, race, national origin, language, origin, citizenship and social status, religion, marital and family status, age, opinions or views, political party or public organisation membership, factors unrelated to the employee's professional qualities.

It should be mentioned that the regulation of part-time work that is incorporated into the Labour Code of the Republic of Lithuania is in compliance with the provisions of the European Communities Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC (OJ,1998, L 014).”

121. The Committee invited Lithuania to bring the situation into conformity with the revised Charter.

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

CYPRUS

122. The Cypriot delegate provided the following information in writing:

“A tripartite technical committee is already examining the possibility of amending Article 3 of the Termination of Employment Law so as to provide for the reinstatement of an unfairly dismissed employee to his/her previous position irrespective of the number of employees employed by an employer.”

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

ESTONIA

124. The Estonian delegate provided the following information in writing:

"See comments on Article 8§2. Pursuant to paragraph 117 of the Employment Contracts Act, upon illegal termination of a contract of employment, an employee has the right to demand reinstatement in his/her position, amendment of the statement of the basis for the termination of the contract and payment of his/her average wages for the time of compelled absence from work. If the employee waives reinstatement in his/her position, the employee is entitled to receive compensation amounting to six months' average wages.

Further, an employee is entitled to claim compensation for damage under the Law of Obligations Act (paragraph 115 and Chapter 7 of Part I) by way of civil proceedings. The amount of compensation for damage claimed under civil proceedings is not limited."

125. 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 – Right to information and consultation in collective redundancy procedures

LITHUANIA

126. The Lithuanian delegate provided the following information in writing:

"Regarding the collective redundancies procedure.

It is stated in the comments from the European Council [ECSR] that the collective redundancies procedure currently in force in Lithuania does not meet the requirements of the Charter because not all the necessary documents are submitted to the people subject to collective redundancies prior to consultations between the employer and the employees that will be dismissed. Under the procedure applicable in Lithuania, it is required to provide information about the reasons for prospective redundancies, their scope, time and categories of workers that will be dismissed. It is emphasized in the comments that seeking to mitigate the consequences of such redundancies and their scope, the employees should be informed in advance about the social measures that will be applied, the criteria for dismissal and the procedure for the redundancies.

It should be noted that clause 7 of the Procedure stipulates that the information which has to be provided by the employer in compliance with clause 6 is for the purpose of preparing the measures that would propose ways of how to avoid collective

redundancies, reduce the number of employees to be dismissed and other measures to mitigate the consequences of the redundancies.

Moreover, the applicable procedure allows the trade unions acting together with employers to provide for any other procedure for consulting the employers and representatives of the employees.

Therefore, it is possible to state that the effective collective redundancies procedure and Article 29 of the Charter actually represent the same objective (clause 7 of the Procedure):

Charter:
It is stipulated in the Charter that "the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences..."

Collective redundancies procedure in Lithuania:
The procedure currently in force in Lithuania provides that the employer "consults the trade unions of the enterprise about the planned redundancies and assesses their proposals …" (clause 6.2) prior to such collective redundancies and the information presented by the employer to the trade unions is used for the following purposes (clauses 7.1, 7.2, 7.3):

> " 7.1. to propose ways and means of avoiding collective redundancies;
>
> 7.2. to reduce the number of employees to be dismissed;
>
> 7.3. to provide for the measures aimed at employment or training of the dismissed employees."

Conclusion - Although the collective redundancies procedure currently in force in Lithuania is based on the same principles as Article 29 of the Charter, it could be specified, taking into consideration the comments from the European Council [ECSR], by more exactly formulating procedural requirements for informing and consulting and the requirements related to the content of information provided prior to the beginning of the consultations with the employer.

The Ministry of Social Security and Labour has not yet received any complaints from the social partners regarding legal regulation of collective redundancies or any proposals for improving such regulation. Taking into consideration the comments from the European Council [ECSR], the Ministry of Social Security and Labour plans to discuss the afore-mentioned comments regarding measures aimed at improving informing and consulting of the employees to be dismissed and, having reconciled the positions of the partners, to revise the currently effective collective redundancies procedure until 1 July 2006."

127. 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 31§3 – Affordable housing

FRANCE

128. The French delegate provided the following information in writing:

"According to the ECSR the supply of social housing in France is manifestly inadequate.

Late 2003 and 2004 saw a significant effort by Government to increase the supply of moderate and very low rental housing.

There were a number of strands to this policy:

– firstly the Act of 1 August 2003 laying down the inner city and urban renewal policy framework, which provided for:

- 200,000 new social housing units;
- rehabilitation of 200,000 existing social housing units;
- demolition of 200,000 social housing units for rent in sensitive urban areas.

The national urban renewal agency was set up specifically to implement this programme.

– the Act of 13 August 2004 on local autonomy and responsibilities, which authorised the state to delegate its powers to finance various forms of housing assistance to *départements*, urban communities (groupings of urban authorities) and other large towns and cities, so long as these authorities have a strategic housing plan.

This new option should make it possible to respond more appropriately to housing needs, based on a better understanding of local circumstances.

In addition, the social cohesion plan launched by the Government in June 2004 includes the financing of 500 000 social housing units between 2005 and 2009 and measures to stimulate the private sector to increase the supply of controlled rental dwellings, from 20,000 new units per year in 2004 to double that figure.

Finally, the Social Cohesion Programming Act of 18 January 2005 provides for the necessary financing to meet the cost of this plan."

129. The Committee noted the positive developments announced and decided to await the next assessment of the ECSR.

SLOVENIA

130. The Slovenian delegate said that there was no new information since the last report. She emphasised the significant shortfall between the demand for and supply of non profit housing. The current waiting time was about seven years.

131. The representative of the ETUC expressed concern about the situation.

132. The Portuguese delegate said that this was a difficult problem, which would take time to resolve. She suggested the Committee should await further developments.

133. The Committee acknowledged that time would be needed to increase the supply of non profit housing but urged the Government to bring the situation in conformity with the revised Charter.

DEFERRED CASES FOR REPEATED LACK OF INFORMATION

134. As a preliminary general remark, the representative of the ETUC called on the States Parties to be as comprehensive and precise as possible in their reporting, in particular in replying to questions raised by the ECSR. He recalled that the reference period for the provisions under consideration was four years and it could therefore take up to 12 years to reach a conclusion on a given point. If the ECSR felt obliged to repeatedly defer a decision for lack of information such a situation called the supervisory system of the Charter generally in question and therefore was not acceptable.

135. The representative of the ETUC referred to previous statements on the problem of deferrals and urged States Parties to be comprehensive and precise in their reporting. He reiterated that if the ECSR had to defer decisions for a repeated lack of information, this in fact called the entire supervisory system into question.

FRANCE 11§1, 11§2, 11§3, 17§2, 23 and 30

136. The French delegate indicated that the requested information would be contained in the next report. In view of the burden of the reporting obligations she wondered whether the Secretariat could somehow assist States in reminding them of pending questions from ECSR. She assured the Committee that the Government had no intention of withholding information.

NORWAY 2§4

137. The Norwegian delegate recalled that under the Working Environment Act work must be organised in such a manner as to be free of risk. She pointed out that the Government had no information on agreement-based provisions on reduced working hours or additional paid holidays, but the Government would consult with the social partners to see if they kept records of such provisions. Any information obtained would be included in the next report.

ROMANIA 8§3 and 11§3

138. The Romanian delegate gave detailed information on the questions raised by the ECSR and indicated that this information would be contained in the next report.

SLOVENIA 11§1, 11§2, 17§2, 18§1, 18§4, 23, 27§1 and 31§1

139. The Slovenian delegate indicated that the requested information would be contained in the next report.

Appendix I

LIST OF PARTICIPANTS

1. 109th meeting: 17-20 May 2005
2. 110th meeting: 20-23 September 2005
3. 111th meeting: 18-20 October 2005

STATES PARTIES / ETATS PARTIES

ALBANIA / ALBANIE

Mrs Albana SHTYLLA, Director of the Legal Department, Ministry of Labour and Social Affairs (1, 2, 3)

ANDORRA / ANDORRE

Melle Iolanda SOLÀ RUIZ, Coordinatrice pour la Charte sociale, Avocate, Carrer Prat de la Creu (1)

ARMENIA / ARMENIE

M. Tigran SAHAKYAN, Chef du Département des Relations Internationales, Ministère du Travail et des Questions Sociales (1, 2, 3)

AUSTRIA / AUTRICHE

Mrs Elisabeth FLORUS, Federal Ministry of Economic Affairs and Labour (1, 2, 3)

AZERBAIJAN / AZERBAÏDJAN

Mr Khalig ILYASOV, Senior Adviser of the International Cooperation Department of the Ministry of Labor and Social Protection of Population (1, 2)

BELGIUM / BELGIQUE

Mme Marie-Paule URBAIN **(President / Présidente)**, Conseillère, SPF Emploi, Travail et Concertation sociale, Services du Président, Division des Etudes (1, 2, 3)

Mme Murielle FABROT, SPF Emploi, Travail et Concertation sociale, Services du Président, Division des Etudes (1, 2, 3)

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 (1, 2, 3)

CROATIA / CROATIE

Ms Gordana DRAGICEVIC, Senior Adviser in the Directorate for Labour and Labour Market, Ministry of Economy, Labour and Entrepreneurship (1, 2, 3)

CYPRUS / CHYPRE

Mr Stavros CHRISTOFI, Administrative Officer, Ministry of Labour and Social Insurance (1, 2, 3)

CZECH REPUBLIC / REPUBLIQUE TCHEQUE

Ms Zuzana SMOLÍKOVÁ, Head of the Unit for Integration of Foreigners, Ministry of Labour and Social Affairs (1, 2, 3)

DENMARK / DANEMARK

Mr Michael DELROY, Ministry of Social Affairs (1, 2, 3)

Mr Jonas Gramkow BARLYNG, Head of Section, Ministry of Integration, Legal Office (1)

Ms Hélène URTH, Head of Section, Ministry of Integration (1)

Mrs Marianne KRISTENSEN, Danish Health Authority (3)

ESTONIA / ESTONIE

Mrs Merle MALVET, Head of Social Security Department, Ministry of Social Affairs (1, 2, 3)

Ms Kristiina RÄÄK, Assistant Adviser to the Deputy Secretary General on Social Policy, Ministry of Social Affairs (3)

FINLAND / FINLANDE

Mrs Riitta-Maija JOUTTIMÄKI, Ministerial Councellor, Ministry of Social Affairs and Health (1, 2, 3)

Mrs Liisa SAASTAMOINEN, Legal Officer, Ministry of Labour (1, 2, 3)

FRANCE

Mme Jacqueline MARECHAL, Chargée de mission au Bureau des Relations européennes, Ministère de l'Emploi, du Travail et de la Cohésion sociale (1, 2, 3)

GEORGIA / GEORGIE

Mr Lasha TCHIGLADZE, Head of the Division of Multilateral Treaty, International Law Department, Ministry of Foreign Affairs (3)

GERMANY / ALLEMAGNE

Mr Holger MAUER, Deputy Head of Division, Federal Ministry of Economics and Labour (1, 2, 3)

Ms Christiane KOENIG, Oberregierungsrätin, Federal Ministry of Economics and Labour (1)

Ms Iris KROENING, Head of Division, Federal Ministry of Economics and Labour (2)

GREECE / GRECE

Mr Grigoris GEORGANES-KLAMPATSEAS, Official, Department of International Relations, Ministry of Employment and Social Protection (1, 2, 3)

Ms Paraskevi KAKARA, Official, Department of International Relations, Ministry of Employment and Social Protection (1, 2, 3)

HUNGARY / HONGRIE

Mr László BENCZE, Legal Expert, Ministry of Youth, Family, Social Affairs and Equal Opportunities (1, 2)

Mr Gyorgy KONCZEI, Advisor, Office of the Minister, Ministry of Employment and Labour (3)

ICELAND / ISLANDE

Mrs Hanna Sigrídur GUNNSTEINSDÓTTIR, Director, Ministry of Social Affairs (1, 2, 3)

IRELAND / IRLANDE

Mr John B. McDONNELL, International Officer, Employment Rights' Section, Department of Enterprise, Trade and Employment (1, 2, 3)

ITALY / ITALIE

Mme Giorgia DESSI, Ministero del Lavoro e delle Politiche Sociali, D.G. Tutela delle Condizioni di Lavoro, Divisione II - Affari Internazionali (1, 2, 3)

LATVIA / LETTONIE

Mr Ingus ALLIKS, Deputy State Secretary, Ministry of Welfare (1, 2)

LITHUANIA / LITUANIE

Mr Povilas-Vytautas ZIUKAS, Deputy Director, Department of the Social Policy Analysis and Forecasting, Ministry of Social Security and Labour (1, 2, 3)

LUXEMBOURG

M. Joseph FABER, Conseiller de Direction première classe, Ministère du Travail et de l'Emploi (2, 3)

MALTA / MALTE

Mr Edward GATT, Director General, E.U. and International Affairs, Ministry for the Family and Social Solidarity (2, 3)

MOLDOVA

Mrs Ala LIPCIU, Head of Foreign Relations Department, Ministry of Labour and Social Protection (1)

Mme Lilia CURAJOS, Chef adjoint, Direction des relations internationales et de l'intégration européenne, Ministère de la Santé et de la Protection sociale (2, 3)

NETHERLANDS / PAYS-BAS

Mrs Claudia J. STAAL, Senior Policy Adviser, Directorate for International Affairs, Ministry of Social Affairs and Employment (1, 2, 3)

Mr R. MOREE, Senior Policy Adviser, Ministry of Social Affairs and Employment (3)

Mr B. TANER, Policy Adviser, Ministry of Social Affairs and Employment (3)

Professor Dr H.D.C. ROSCAM ABBING, Legal Counsellor Health Law, Ministry of Health Welfare and Sport (3)

Ms V. ELS, Policy Adviser, Ministry of Economic and Labour Affairs, Directorate for Labour Affairs, The Netherlands Antilles (3)

NORWAY / NORVEGE

Ms Else Pernille TORSVIK, Adviser, Labour Market Department, Ministry of Labour and Social Affairs (1, 2)

POLAND / POLOGNE

Mme Joanna MACIEJEWSKA, Conseillère du Ministre, Département des Analyses Economiques et Prévisions, Ministère de la Politique Sociale (1), 2, 3)

PORTUGAL

Ms Maria Alexandra PIMENTA, Legal Adviser of the Secretary of State Adjunct and for the Rehabilitation (1, 2, 3)

ROMANIA / ROUMANIE

Ms Cristina ZORLIN, Expert, Directorate for External Relations and International Organisations, Ministry of Labour, Social Solidarity and Family (1)

Ms. Magda FILIP, Director, Directorate for External Relations and International Organisations, Ministry of Labour, Social Solidarity and Family (2)

Ms Claudia Roxana POPESCU, Expert, Directorate for External Relations and International Organisations, Ministry of Labour, Social Solidarity and Family (3)

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Mrs Zora BAROCHOVA, State Councellor, Department of EU Affairs and International Relations, Ministry of Labour, Social Affairs and Family (1, 2, 3)

SLOVENIA / SLOVENIE

Mrs Natasa SAX, Adviser, International Cooperation and European Affairs Department, Ministry of Labour, Family and Social Affairs (1, 2, 3)

SPAIN / ESPAGNE

M. Carlos LÓPEZ-MONIS DE CAVO, Conseiller technique, Sous-Direction générale des Relations sociales internationales, Ministère du Travail et des Affaires sociales (1, 2, 3)

SWEDEN / SUEDE

Ms Petra HERZFELD-OLSSON, Head of Section, Division for Labour Law and Work Environment, Ministry of Industry, Employment and Communications (1, 2, 3)

Ms Emma BOMAN LINDBERG, Head of Section, Division for Labour Law and Work Environment, Ministry of Industry, Employment and Communications (1)

"THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA" /
"L'EX-REPUBLIQUE YOUGOSLAVE DE MACEDOINE"

Ms Adrijana BAKEVA, Head of the European Integration Department, Ministry of Labour and Social Policy (1, 2, 3)

TURKEY / TURQUIE

Mr Levent GENÇ, Deputy Director General, Ministry of Labour and Social Security (1, 2)

Ms Selmin SENEL, Expert, Directorate General for External Relations and Services for Workers Abroad, Ministry of Labour and Social Security (3)

UNITED KINGDOM / ROYAUME-UNI

Mr Tudor ROBERTS, ILO, UN & CoE (Employment) Team, Joint International Unit, Dept for Work and Pensions / Dept for Education and Skills (1, 2, 3)

Mr Stephen RICHARDS, ILO, UN & CoE (Employment) Team, Joint International Unit, Dept for Work and Pensions / Dept for Education and Skills (2)

Mr John SUETT, ILO, UN & CoE (Employment) Team, Dept for Work and Pensions, International Relations Division (3)

SOCIAL PARTNERS / PARTENAIRES SOCIAUX

EUROPEAN TRADE UNION CONFEDERATION /
CONFEDERATION EUROPEENNE DES SYNDICATS

Mr Klaus LÖRCHER, ETUC Legal Adviser, Head of Department for European and International Legal Affairs, Vereinte Dienstleistungsgewerkschaft – Verdi, Bundesvorstand – Ressort 5 – Recht (1, 2)

Mr Stefan CLAUWAERT, ETUC NETLEX Coordinator, European Trade Union Institute for Research, Education and Health and Safety (ETUI-REHS (1, 2, 3)

M. Henry LOURDELLE, Conseiller, Confédération Européenne des Syndicats (3)

UNION OF INDUSTRIAL AND EMPLOYERS' CONFEDERATIONS OF EUROPE /
UNION DES CONFEDERATIONS DE L'INDUSTRIE ET DES EMPLOYEURS D'EUROPE

Apologised / Excusé

INTERNATIONAL ORGANISATION OF EMPLOYERS /
ORGANISATION INTERNATIONALE DES EMPLOYEURS

Dr Lucia SASSO-MAZZUFFERI, Avocat, Conseillère pour les Affaires internationales (1, 3)

SIGNATORIES STATES / ETATS SIGNATAIRES

BOSNIA AND HERZEGOVINA / BOSNIE-HERZEGOVINE

Ms Azra HADŽIBEGIĆ, Expert for Human Rights, Ministry for Human Rights and Refugees (1, 2, 3)

GEORGIA / GEORGIE

Mr Lasha TCHIGLADZE, Head of the Division of Multilateral Treaty, International Law Department, Ministry of Foreign Affairs (1, 2)

LIECHTENSTEIN

Apologised / Excusé

MONACO

M. Thierry PICCO, Directeur Général du Département des Affaires Sociales et de la Santé, Ministère d'Etat (3)

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Mr Ivan DUBOV, Deputy Director, Department of Legal and International Activities, Federal Service of Labour and Employment, Ministry of Health and Social Development (1, 2)

Mme Elena VOKACH-BOLDYREVA, Consultante, Département de la coopération internationale et des relations publiques, Ministère de la Santé et du Développement social (3)

SAN MARINO / SAINT-MARIN

Apologised / Excusé

SERBIA AND MONTENEGRO / SERBIE-MONTENEGRO

Mrs Ivana VJESTICA, Senior Associate, Ministry of Labor, Employment and Social Policy of the Republic of Serbia (1)

Ms Jasmina PETROVIC, Head of Harmonization with EU Law Department, Ministry of Labor, Employment and Social Policy of the Republic of Serbia (2, 3)

SWITZERLAND / SUISSE

Apologised / Excusé

UKRAINE

Mrs Natalija SAPON, Head of International Relations Department, Ministry of Labour and Social Policy (1)

Mrs Natalia POPOVA, Head of European Integration Sector, International Relations Department, Ministry of Labour and Social Policy (2, 3)

Appendix II

CHART OF SIGNATURES AND RATIFICATIONS

Situation at 1 November 2005

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**	
Azerbaïjan		18/10/01	02/09/04	
Belgium		03/05/96	02/03/04	23/06/03
Bosnia and Herzegovina		11/05/04		
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	*	**18/10/61**	**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		**29/05/97**	**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		
Netherlands		23/01/04	**22/04/80**	
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 and Montenegro		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	**24/11/89**	
Ukraine		07/05/99		
United Kingdom	*	07/11/97	**11/07/62**	
Number of States	46	**6** + 40 = 46	**17** + 21 = 38	13

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

Bulgaria
– Article 11§1
– Article 17§2

Cyprus
– Article 3§2
– Article 8§3
– Article 24
– Article 27§3

Estonia
– Article 3§2
– Article 4§4
– Article 8§2
– Article 17§1
– Article 27§3

France
– Article 17§1
– Article 18§1
– Article 31§3

Lithuania
– Article 8§1
– Article 8§2
– Article 8§5
– Article 14§1
– Article 17§1
– Article 27§1
– Article 29

Moldova
– Article 4§4
– Article 11§1
– Article 17§1
– Article 26§1
– Article 26§2

Roumania
– Article 11§1

Sweden
– Article 18§3

B. Renewed conclusions of non conformity

Bulgaria	– Article 8§1 – Article 8§2 – Article 17§2 – Article 25
Cyprus	– Article 8§2
France	– Article 8§1 – Article 17§1
Norway	– Article 2§1 – Article 4§5 – Article 10§5 – Article 15§2
Roumania	– Article 11§1 – Article 17§1
Slovenia	– Article 17§1 – Article 31§3
Sweden	– Article 8§1 – Article 18§3

Appendix IV

LIST OF DEFERRED CONCLUSIONS BECAUSE OF A QUESTION ASKED FOR THE FIRST TIME OR ADDITIONAL QUESTIONS

France	– Article 11§1 – Article 11§2 – Article 11§3 – Article 17§2 – Article 23 – Article 30
Norway	– Article 2§4
Roumania	– Article 8§3 – Article 11§3
Slovenia	– Article 11§1 – Article 11§2 – Article 17§2 – Article 18§1 – Article 18§4 – Article 23 – Article 27§1 – Article 31§1

Appendix V

WARNING(S) AND RECOMMENDATION(S)

Warning(s)

– **Ireland**
(2nd warning for non-submission of the report.)

Recommendation(s)

–

Renewed Recommendation(s)

–