



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

15 July 2014

The relationship between European Union law and the European Social Charter

Working Document

Introduction

1. This document is a follow-up to the meeting between representatives of the European Committee of Social Rights ("the Committee") and of the European Commission's Directorate General for Justice at the latter's headquarters in Brussels on 14 March 2013 on the subject of the relationship between European Union (EU) law and the European Social Charter ("the Charter"), particularly in the context of the implementation of the EU Charter of Fundamental Rights.¹

2. The need for clarification about the relations between the two European standard setting systems on social rights, namely, on the one hand, EU law, including primary law, secondary law and, as a source of supplementary law, the case-law of the EU Court of Justice and, on the other, the Charter, was referred to for the first time at the aforementioned meeting. At the meeting emphasis was placed on the divergences between the two systems, which were noted by the Committee in the process of monitoring the application of the Charter on the basis of collective complaints in the period 2010-2013.²

3. The Committee noted that these divergences, relating to the national law of some States Parties to the Charter that are also members of the EU and which falls within the scope of the Charter, constituted a violation of these states' obligations under the Charter. At the same time, other divergences between the two systems, linked to the application of the Charter in national law, have been brought to light for a number of years now in the conclusions adopted by the Committee in the course of its supervision work based on national reports.

4. The aim of this document is to clarify the relations between the two European standard-setting systems for the protection of social rights (at the Council of Europe and the European Union), whether divergent or convergent, as highlighted by the case-law of the Committee. On this basis, the document is designed to contribute to improved co-

¹ Participants: European Committee of Social Rights: Mr Petros Stangos, Vice-President, Mr Régis Brillat, Executive Secretary, accompanied by Ambassador Torbjørn Frøysnes, Special Representative of the Secretary General of the Council of Europe, Head of the Council of Europe Liaison Office with the European Union, Brussels; DG Justice – Directorate C Fundamental Rights and Union Citizenship: Mr Paul Nemitz, Director, accompanied by Messrs Charalambos Fragkoulis, Dimitrios Dimitriou, Michael Morass and Vincent Depaigne.

² Confédération Générale du Travail (CGT) v. France, Complaint No. 55/2009, Decision on the merits of 23 June 2010; Confédération Française de l'Encadrement «CFE-CGC» v. France, Complaint No. 56/2009, Decision on the merits of 23 June 2010; Federation of Employed Pensioners of Greece (IKA – ETAM) v. Greece, Complaint No. 76/2012, Decision on the merits of 7 December 2012; Panhellenic Federation of Public Service Pensioners v. Greece, Complaint No. 77/2012, Decision on the merits of 7 December 2012; Pensioners' Union of the Athens-Piraeus Electric Railways (I.S.A.P.) v. Greece, Complaint No. 78/2012, Decision on the merits of 7 December 2012; Panhellenic Federation of Pensioners of the Public Electricity Corporation (POS-DEI.) v. Greece, Complaint No. 79/2012, Decision on the merits of 7 December 2012; Pensioners' Union of the Agricultural Bank of Greece (ATE) v. Greece, Complaint No. 80/2012, Decision on the merits of 7 December 2012; Swedish Trade Union Confederation (LO) and Swedish Confederation of Professional Employees (TCO) v. Sweden, Complaint No. 85/2012, Decision on admissibility and on the merits of 3 July 2013.

ordination of the two systems, both in the interests of states and citizens and in that of the two European organisations concerned. At any event, the conditions for renewed co-operation can only be established and implemented by means of high-level political decisions by the competent institutional bodies.

5. In this light, the first part of the document provides general information on the Charter and the tasks assigned to the Committee by virtue of the Charter and its additional protocols. In this context, Appendix I illustrates the various levels of commitment of EU member states with regard to the provisions of the Charter.

The second part, which is subdivided into various sections and sub-sections, describes the existing links between EU law and the Charter, with reference to the provisions of the Charter and relevant EU texts. The Charter provisions and the corresponding sources of EU primary law, secondary law (identified on the basis of the Committee's case-law) and the relevant case-law of the EU Court of Justice are presented respectively in Appendix II (columns 1, 2 and 3) and Appendix III of this document.

The third part of the document describes the links between the provisions of the Charter, secondary EU law and the case-law of the Court of Justice as reflected in the Committee's case-law. The bases for these links are illustrated in Appendix II (column 4); in this context, the comments are an indication of the convergence or divergence in the levels of protection provided by the two systems.

6. Bearing in mind the foregoing, the final part of the document contains considerations and proposals relating to the establishment of more coherent and harmonious relations between the two standard-setting systems with a view to the possible future accession of the EU to the Charter. These proposals will serve as a basis for discussion at the High-Level Conference on the European Social Charter, to be held by the Council of Europe in Turin (Italy) on 17 and 18 October 2014, in co-operation with the Italian Government and the Turin city authorities and in the context of the Italian Presidency of the European Union.

Part I

1. The European Social Charter and the European Committee of Social Rights: background information

7. The Charter is a Council of Europe treaty, which was adopted in 1961 and revised in 1996 and which safeguards social and economic rights, that is human rights affecting people's everyday lives. These rights are additional to the civil and political rights enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 ("the Convention"). Like the Convention rights, those recognised under the Charter have their origin in the Universal Declaration of Human Rights.

8. The 1961 Charter sets out to establish binding international legal guarantees in the same way as the Convention but without going so far as to set up a dedicated court. The Revised Charter updates and adds to the rights enshrined in the 1961 instrument. One of its sources of inspiration was EU law.

9. The Charter guarantees a wide range of fundamental rights, mainly relating to working conditions, freedom to organise, health, housing and social protection. Specific emphasis is laid on the protection of vulnerable persons such as elderly people, children, people with disabilities and migrants. The Charter requires that enjoyment of the rights it lays down should be guaranteed without discrimination.

10. In view of this diversity, the Charter is based on what is termed an *à la carte* ratification system, enabling states, under certain circumstances (see table below), to choose the provisions they are willing to accept as binding international legal obligations. This means that while signatory states are encouraged to make progress in accepting the Charter's provisions, they are also allowed to adapt the commitments they enter into at the time of ratification to the level of legal protection of social rights attained by their own system.

Under the so-called à la carte arrangement, each Contracting Party undertakes:

- *to consider Part I of the Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part;*
- *to consider itself bound by at least six of the following nine articles of Part II of this Charter: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20 (in the corresponding provision of the 1961 Charter the Articles referred to were Articles 1, 5, 6, 12, 13, 16 and 19);*
- *to consider itself bound by an additional number of articles or numbered paragraphs of Part II of the Charter which it may select, provided that the total number of articles or numbered paragraphs by which it is bound is not less than sixteen articles or sixty-three numbered paragraphs (in the corresponding provision of the 1961 Charter, the total number of articles or numbered paragraphs was supposed not to be less than 10 articles or 45 numbered paragraphs).*

11. According to the Charter, states' compliance with their commitments under the Charter is subject to the international supervision of the Committee. Its fifteen members, who are independent and impartial, are elected by the Committee of Ministers of the Council of Europe for a six-year term of office, which is renewable once. The Committee verifies compliance with the Charter under two separate procedures: the reporting procedure, whereby member states submit regular national reports, and the collective complaints procedure, based on the filing of complaints by employer and employee organisations and non-governmental organisations.

12. For more information on the Charter, it is possible to consult the Council of Europe website, at www.coe.int/socialcharter. In addition to information on the various treaties and the Committee's work, these pages contain all of the Committee's conclusions and decisions and country factsheets. They also include a database and a compendium of the Committee's case-law.

13. The interpretation made by the European Committee of Social Rights of the Charter illustrates the nature and the scope of this treaty: the Social Charter is a human rights treaty. Its purpose is to apply the Universal Declaration of Human Rights within Europe, as a supplement to the European Convention on Human Rights.

14. In this perspective, while respecting the diversity of national traditions of the Council of Europe's member states, which constitute common European social values and which should not be undermined by the Charter nor by its application; it is important to:

- consolidate adhesion to the shared values of solidarity, non-discrimination and participation;
- identify the principles that ensure that the rights embodied in the Charter are applied equally effectively in all the Council of Europe member states.

15. On the occasion of the examination of several complaints, the Committee explained the nature of the States' obligations in order to implement the Charter: the Committee recalls that the aim and purpose of the Charter, being a human rights protection instrument, is to protect rights not merely theoretically, but also in fact. In this respect it considers that the implementation of the Charter cannot be achieved solely by the adoption of legislation if its application of it is not accompanied by an effective and rigorous control. The implementation of the Charter requires thus the State Parties to take not merely legal action but also practical action to give full effect to the rights recognised in the Charter.

16. Certain rights guaranteed by the Charter require immediate implementation as from the entry into force of the Charter in the State concerned. Other rights may be implemented progressively by States parties. This is the case for rights the implementation of which is particularly complex and may involve significant budgetary costs. The Committee has, however stated with precision what methods of progressive implementation may be in conformity with the Charter: when the achievement of one of the rights in question is exceptionally complex and particularly expensive to resolve, a State Party must take measures that allows it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources. States Parties must be particularly mindful of the impact that their choices will have for groups with heightened vulnerabilities as well as for others persons affected including, especially, their families on whom falls the heaviest burden in the event of institutional shortcomings. In the absence of any commitment to or means of measuring the practical impact of measures taken, the rights specified in the Charter are likely to remain ineffective (...) In connection with timetabling (...), it is essential for reasonable deadlines to be set that take account not only of administrative constraints but also of the needs of groups that fall into the urgent category. At all events, achievement of the goals that the authorities have set themselves cannot be deferred indefinitely.

17. Moreover, the Charter is interpreted in the light of the European Convention on Human Rights and the case-law of the European Court of Human Rights as well as in

the light of other international treaties which are relevant in the field of rights guaranteed by the Charter as well as in the light of the interpretation given to these treaties by their respective monitoring bodies, in particular the United Nations International Covenant on Economic Social and Cultural Rights, the United Nations Convention on the Rights of the Child, the International Convention on the Elimination of all forms of Racial Discrimination of 21 December 1965.

18. The Committee takes also into account the law of the European Union when interpreting the Charter.

Part II

Existing links between EU law and the Charter – see *the tables in Appendices I, II (columns 1, 2 and 3) and III*

1. General information

19. In general, the rights established by the Charter are guaranteed in a more or less explicit and detailed manner by EU law. As can be seen from the summary table in Appendix II (see, in particular, columns 2 and 3), the 98 paragraphs of the Revised Charter can be matched to binding provisions of primary or secondary EU law, albeit with some differences of both form and substance.

20. From this table, it can be seen in particular that, in addition to the relevant provisions of the Treaty on European Union (Article 6) and the Treaty on the Functioning of the European Union (particularly, in Article 18, the section concerning individuals' freedom of movement and, above all, that on social policy), most of the rights guaranteed by the Revised Charter are matched by corresponding safeguards in the EU Charter of Fundamental Rights (see column 2), but with significant exceptions relating to certain articles and paragraphs.

21. Without being exhaustive, the table in question also shows that, in the case of secondary legislation (directives and regulations), the EU lays down requirements in a significant number of fields of specific relevance to social rights (see column 3). In this context or the context of other initiatives taken in the field of intergovernmental co-operation, the EU has addressed, to varying extents and in varying detail, a large number of social rights-related issues. It has also looked into issues including work organisation and working conditions, occupational health and safety, co-ordination in social security matters, social dialogue, free movement of workers, social inclusion and the fight against poverty, non-discrimination and the needs of vulnerable people such as people with disabilities and elderly people.

2. Links between EU law and the Charter considered from the standpoint of the Charter

2.1 The diverse nature of commitments entered into by EU member states under the Charter treaties

22. At present the 28 EU member states are part of the "system" of the Charter treaties (the 1961 Charter, the Additional Protocol of 1988, the Additional Protocol of 1995 and the Revised Charter), albeit with differences regarding the commitments they have entered into: nine states are bound by the 1961 Charter (five of which are also bound by the Protocol of 1988) and nineteen by the Revised Charter. With the exception of two states, France and Portugal – which have accepted all the paragraphs of the Revised Charter - the others have ratified a greater or lesser number of provisions of either version of the Charter. Only fourteen EU member states have accepted the 1995 Protocol establishing a system of collective complaints. This results in a variety of situations and contracted obligations. The table in Appendix I provides detailed information on the undertakings made by each EU member state with regard to the provisions of the Charter.

23. There is a clear lack of uniformity in the acceptance of Charter provisions by the EU member states. This is the result of the choices made by each State Party when expressing its sovereign will on the basis of the Charter acceptance system described above (see Part I above). While not amounting to an anomaly in itself, this lack of uniformity sometimes reveals a lack of consistency. Where the protection of some fundamental social rights is concerned, some states have chosen not to enter any undertaking under the Charter; yet, pursuant to EU law, they have adopted legal instruments or measures providing equal or greater protection than that guaranteed in the Charter provision(s) they have not accepted. In other words, while applying the EU's binding standards in an area covered by the Charter, some states have not accepted the Charter provisions establishing legally equivalent guarantees.

24. Given this situation, it would be expedient to identify the Charter provisions which EU member states should accept because they belong to the EU. Greater consistency as regards EU member states' social rights commitments under the two standard-setting systems may contribute in future to the realisation of the European Parliament's proposal that the EU should accede to the Charter (on this point, see Chapter 3.3 below).

2.2 Community Directives: a source of inspiration for the Revised Charter

25. The Community Charter on the Fundamental Social Rights of Workers is a declaration adopted in 1989 by eleven Heads of State and Government of the European Economic Community and draws its inspiration from the 1961 Charter. On the basis of this declaration, the Community institutions have gradually adopted a series of directives relating to labour law.

26. As can be seen from the Explanatory Report to the Revised Charter ("the report"), some of its provisions draw on, or make express reference to, these directives. For example, this concerns:

- Article 2§6 on the right to just conditions of work – and especially to information about the employment contract – concerning which the report refers to Council Directive 91/533 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship;

- Article 7§2 on the right of children and young persons to protection, especially the ban on employment of those under the age of 18 in dangerous or unhealthy occupations, where the report states that this provision was inspired by Council Directive 94/33 on the protection of young people at work;

- Article 8§4 on the right of employed women to protection of maternity, especially the regulation of night work, with regard to which the report states that the basic idea behind this paragraph was taken, inter alia, from Community Directive 92/85 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding. Concerning this same article, the report stipulates that the definition of the women workers covered by this provision (pregnant women, women who have recently given birth and women who are nursing their infants) draws on the directive in question;

- Article 25 on workers' right to the protection of their claims in the event of the insolvency of their employer, where the report states that this provision was inspired, inter alia, by Community Directive 80/987 on the approximation of the laws of the member states relating to the protection of employees in the event of the insolvency of their employer, laying down the general principle of the right of workers to protection of their claims in such circumstances;

- Article 29 on the right to information and consultation in collective redundancy procedures, where the report states that when drafting the article account was taken of Community Directive 92/56 of 1992 amending Directive 75/129 on the approximation of the laws of the member states relating to collective redundancies.

3. Links between EU law and the Charter considered from the standpoint of EU law

3.1 Introduction

27. This section concerns primary and secondary EU law and other non-binding texts adopted by the EU (or the European Community or the European Economic Community) referring expressly to the Charter (see Appendix II – columns 2 and 3). In this context, a list of documents of the Court of Justice referring directly to the Charter is also presented (see Appendix III), and the references to the Charter or the Committee in these have been underlined to make it easier to identify them. Where certain primary law provisions are concerned, commentaries have been included, particularly guidelines and explanations drawn up by EU institutions or bodies with regard to the implementation of the Charter of Fundamental Rights. This section also includes EU

documents which do not refer explicitly to the Charter but implicitly take it into account as supplementary law, that is as an international human rights treaty.

3.2 The Charter in primary law sources (including explanations and guidelines on the implementation of the EU Charter of Fundamental Rights)

28. *The Single European Act (Luxembourg, 17 February, and the Hague, 28 February 1986)*

Preamble, §3

“...DETERMINED to work together to promote democracy on the basis of the fundamental rights recognized in the constitutions and laws of the Member States, in the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, notably freedom, equality and social justice,”.

29. *Treaty of Amsterdam amending the Treaty on European Union, the Treaties establishing the European Communities and certain related acts (2 October 1997)*

Article 1

“The Treaty on European Union shall be amended in accordance with the provisions of this Article.

1. After the third recital the following recital shall be inserted:

‘... CONFIRMING their attachment to fundamental social rights as defined in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers,’

22. Articles 117 to 120 shall be replaced by the following Articles:

Article 117

The Community and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.”

30. *Treaty on European Union*

Preamble, §5

'... CONFIRMING their attachment to fundamental social rights as defined in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers,'

31. *Treaty on the Functioning of the European Union*

Article 151

"The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.

To this end the Union and the Member States shall implement measures which take account of the diverse forms of national practices, in particular in the field of contractual relations, and the need to maintain the competitiveness of the Union economy.

They believe that such a development will ensue not only from the functioning of the internal market, which will favour the harmonisation of social systems, but also from the procedures provided for in the Treaties and from the approximation of provisions laid down by law, regulation or administrative action."

32. *The EU Charter of Fundamental Rights and related acts*

The European Parliament, the Council and the Commission formally adopted the Charter of Fundamental Rights in Nice in December 2000. With the entry into force of the Treaty of Lisbon, in December 2009, this document was given the same binding legal force as the treaties. To this end, the Charter of Fundamental Rights was amended and proclaimed for the second time in December 2007. It includes an introductory preamble and 54 articles divided among 7 chapters. Chapter IV on "Solidarity" relates in particular to workers' right to information and consultation within the undertaking, the right to bargain collectively and to collective action, the right of access to placement services, protection against unjustified dismissal, fair and just working conditions, the prohibition of child labour and protection of young people at work, family life and professional life, social security and social assistance and health care.

The Charter of Fundamental Rights is applicable to the European institutions with due regard for the subsidiarity principle and under no circumstances can it broaden the powers or tasks conferred on them by the treaties. It is also applicable to EU member states when they implement EU legislation. The meaning and scope of any right corresponding to the rights guaranteed by the European Convention on Human Rights

*must be the same as laid down therein. It should be noted that EU legislation can provide for more extensive protection. Any right resulting from the joint constitutional traditions of the EU member states must be interpreted in keeping with those traditions.*³

Preamble, §5

“This Charter reaffirms, with due regard for the powers and tasks of the Union and for the principle of subsidiarity, the rights as they result, in particular, from the constitutional traditions and international obligations common to the Member States, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Social Charters adopted by the Union and by the Council of Europe and the case-law of the Court of Justice of the European Union and of the European Court of Human Rights. In this context the Charter will be interpreted by the courts of the Union and the Member States with due regard to the explanations prepared under the authority of the Praesidium of the Convention which drafted the Charter and updated under the responsibility of the Praesidium of the European Convention”.

Article 53 – Level of protection

“Nothing in this Charter shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognised, in their respective fields of application, by Union law and international law and by international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and by the Member States' constitutions.”

33. It is on account of this obligation that the European Union Agency for Fundamental Rights ("the Agency") considers that the "fundamental rights community" established by EU law should be "seen in the wider context of a multilevel governance perspective with ... the Council of Europe and the EU Member States all providing their respective shares in a joined up system of fundamental rights protection".⁴

34. On that basis, with more specific relevance to the Council of Europe, the Agency considers that:

- "To become more effective on the ground ... the Council of Europe and the EU [should] increase their inter-operationality. When EU Member States apply EU law, they remain responsible for implementing human rights under Council of Europe treaties".

³ NB – Protocol No. 30 to the treaties on application of the Charter of Fundamental Rights to Poland and the United Kingdom restricts the interpretation of the Charter by the Court of Justice and the national courts of these two countries, particularly regarding rights relating to solidarity (Chapter IV – see above).

⁴ 2012 Annual Report of the European Union Agency for Fundamental Rights – section on "Observing fundamental rights obligations in Article 6 of the TEU".

- "Against this background, it is important to make positive use of the EU layer of governance to ensure that all branches of EU government – judiciary, legislature and administration – can contribute to the flowering of the Council of Europe standards ..."⁵

35. The considerations on what it terms the European "fundamental rights landscape" lead the Agency to conclude that one of the key challenges is to "guarantee that all levels of the system are efficient and use a variety of mechanisms to protect and promote rights and inform each other (horizontal dimension)." With this aim in mind, it considers that another challenge is "how to foster interaction among all the different levels of the fundamental rights landscape (vertical dimension)" and that "fundamental rights can only be efficiently protected if the levels are well connected ...".⁶

36. *Explanations relating to the Charter of Fundamental Rights*

In the introduction to the "Explanations",⁷ it is stated that they "were originally prepared under the authority of the Praesidium of the Convention which drafted the Charter of Fundamental Rights of the European Union. They have been updated under the responsibility of the Praesidium of the European Convention, in the light of the drafting adjustments made to the text of the Charter by that Convention (notably to Articles 51 and 52) and of further developments of Union law. Although they do not as such have the status of law, they are a valuable tool of interpretation intended to clarify the provisions of the Charter".

On the subject of the "Explanations", Article 6 of the Treaty on European Union states as follows: "...The rights, freedoms and principles in the [EU Charter of Fundamental Rights] shall be interpreted in accordance with the general provisions in Title VII of the [aforementioned] Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions".

37. The Charter is mentioned in the following "Explanations":

- Explanation on Article 14- The right to education: Article 10 of the Charter ;
- Explanation on Article 15- Freedom to choose an occupation and right to engage in work: Article 1§2 of the Charter ;
- Explanation on Article 23- Equality between men and women: Article 20 of the Charter ;
- Explanation on Article 25- The rights of the elderly: Article 23 of the Charter ;
- Explanation on Article 26- Integration of persons with disabilities: Article 15 of the Charter ;
- Explanation on Article 27- Workers' right to information and consultation within the undertaking: Article 21 of the Charter ;

⁵ 2011 Annual Report of the European Union Agency for Fundamental Rights – Focus section on Bringing rights to life: the fundamental rights landscape of the European Union".

⁶ *Ibid.*

⁷ See EU Official Journal of 14 December 2007 – 2007/C 303/02.

- Explanation on Article 28- Right of collective bargaining and action: Article 6 of the Charter ;
- Explanation on Article 29- Right of access to placement services: Article 1§3 of the Charter ;
- Explanation on Article 30- Protection in the event of unjustified dismissal: Article 24 of the Charter ;
- Explanation on Article 31- Fair and just working conditions: Article 3 of the Charter concerning §1 of Article 31 and Article 2 of the Charter concerning §2 of this provision ;
- Explanation on Article 32- Prohibition of child labour and protection of young people at work: Article 7 of the Charter ;
- Explanation on Article 33- Family and professional life: Article 8 of the Charter and Article 27 of the Charter ;
- Explanation on Article 34- Social security and social assistance: Article 12 of the Charter concerning §1 of Article 34, Articles 12§4 and 13§4 of the Charter concerning §2 of this provision and Article 13 of the Charter concerning §3 of this provision;
- Explanation on Article 35- Health care: Articles 11 and 13 of the Charter.

38. *Council conclusions on the role of the Council of the European Union in ensuring the effective implementation of the Charter of Fundamental Rights of the European Union*⁸

“...Member States' administrations are the first level where compliance with obligations deriving from the Charter, as well as the constitutional traditions and international obligations common to all Member States, should be guaranteed ...”

39. *Council conclusions on fundamental rights and the rule of law and on the Commission's 2012 Report on the Application of the Charter of Fundamental Rights of the European Union*⁹

“... [M]ake full use of existing mechanisms and cooperate with other relevant EU and international bodies, particularly with the Council of Europe, in view of its key role in relation to promotion and protection of human rights, democracy and the rule of law, in order to avoid overlaps”.

40. *Operational Guidance on taking account of Fundamental Rights in Commission Impact Assessments*¹⁰

“... [T]o understand the meaning and scope of the rights enshrined in the Charter [of Fundamental Rights] in a given policy context, it is also important to look more closely at international human rights conventions to which either the Union ... or all Member

⁸ Document of the Justice and Home Affairs Council, meeting in Brussels on 24 and 25 February 2011.

⁹ Document of the Justice and Home Affairs Council, meeting in Luxembourg on 6 and 7 June 2013.

¹⁰ Document SEC(2011) 567 final (6 May 2011).

States are contracting parties...". To that end, it considers that "Depending on your policy context, it may therefore be necessary to take such international human rights conventions into account when interpreting the rights set out in the Charter".

41. *Communication from the Commission on the Strategy for effective implementation of the Charter of Fundamental Rights by the European Union*¹¹

"...[T]he [EU] Charter [of Fundamental Rights] is an innovative instrument because it brings together in one text all the fundamental rights protected in the Union, spelling them out in detail and making them visible and predictable. In a footnote the reference to "all the fundamental rights protected in the Union" is clarified in the following terms "The rights and principles enshrined in the Charter stem from the constitutional traditions and international conventions common to the Member States, the European Convention on Human Rights, the Social Charters adopted by the Community and the Council of Europe and the case law of the Court of Justice of the Union and the European Court of Human Rights."

3.3 The Charter in secondary law sources

42. *Directive 2014/36/EU of the European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers*

"(44) This Directive should apply without prejudice to the rights and principles contained in the European Social Charter of 18 October 1961 and, where relevant, the European Convention on the Legal Status of Migrant Workers of 24 November 1977".

43. *Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection - Text with EEA relevance*

Article 1

"Directive 2003/109/EC is amended as follows: ...

(2) Article 3 is amended as follows: ... in paragraph 3, point (c) is replaced by the following: (c) the European Convention on Establishment of 13 December 1955, the European Social Charter of 18 October 1961, the amended European Social Charter of 3 May 1987, the European Convention on the Legal Status of Migrant Workers of 24 November 1977, paragraph 11 of the Schedule to the Convention Relating to the Status of Refugees of 28 July 1951, as amended by the Protocol signed in New York on 31 January 1967, and the European Agreement on Transfer of Responsibility for Refugees of 16 October 1980".

¹¹ COM(2010) 573 final.

44. *Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents*

“3. This Directive shall apply without prejudice to more favourable provisions of:

...

(c) the European Convention on Establishment of 13 December 1955, the European Social Charter of 18 October 1961, the amended European Social Charter of 3 May 1987 and the European Convention on the Legal Status of Migrant Workers of 24 November 1977.

45. *Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification*

Article 3

“4. This Directive is without prejudice to more favourable provisions of:

(a) bilateral and multilateral agreements between the Community or the Community and its Member States, on the one hand, and third countries, on the other;

(b) the European Social Charter of 18 October 1961, the amended European Social Charter of 3 May 1987 and the European Convention on the legal status of migrant workers of 24 November 1977”.

46. *Decision No 50/2002/EC of the European Parliament and of the Council of 7 December 2001 establishing a programme of Community action to encourage cooperation between Member States to combat social exclusion*

“Whereas: ...

(2) Pursuant to Article 136 of the Treaty, the Community and the Member States, taking note of fundamental political principles, such as those set out in the European Social Charter signed at Turin on 18 October 1961, the revised Social Charter of the Council of Europe (1996), in particular in Article 30 thereof on the right to protection against poverty and social exclusion, and in the 1989 Community Charter of the Fundamental Social Rights of Workers, and bearing in mind also the rights and principles recognised by the Charter of Fundamental Rights of the European Union proclaimed jointly by the European Parliament, the Council and the Commission on 7 December 2000, shall have as an objective the combating of exclusion”.

47. *Resolution of the Council and the representatives of the governments of the Member States, meeting within the Council of 23 July 1996 concerning the European Year against Racism (1997)*

“(1) Whereas, in the preamble to the Single European Act, the Member States stressed the need to 'work together to promote democracy on the basis of fundamental rights

recognized in the constitutions and laws of the Member States, in the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, notably freedom, equality and social justice”.

48. *Resolution of the Council and the representatives of the Governments of the Member States, meeting within the Council of 5 October 1995 on the fight against racism and xenophobia in the fields of employment and social affairs*

“Whereas, in the Single European Act, the Member States stressed the need 'to work together to promote democracy on the basis of the fundamental rights recognized in the constitutions and laws of the Member States, in the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, notably freedom, equality and social justice”.

49. *Resolution of the Council and the Representatives of the Governments of the Member States, meeting within the Council of 29 May 1990 on the fight against racism and xenophobia*

“Whereas, in the Single European Act, the Member States stressed the need 'to work together to promote democracy on the basis of the fundamental rights recognized in the constitutions and laws of the Member States, in the Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, notably freedom, equality and social justice”.

50. *Commission Recommendation of 18 July 1966 to the Member States on the promotion of vocational guidance*

“3. Co-operation between the member states in the field of vocational guidance is especially important given that it is generally felt, albeit to varying degrees, that the organisation and functioning of guidance services should be improved. Furthermore, as there are many similarities between the problems faced by the different countries as regards optimising and extending guidance activities, it will be of benefit to the six member states to compare their experience at national level to draw general conclusions. Convergent concerns have already been expressed in various international organisations and in their member states. The importance attached to these has been reflected at international level by contacts and the adoption of certain measures. In addition to Recommendation No. 87 of the International Labour Organisation, Geneva, of July 1949, reference should be made in particular to: the European Social Charter, Turin, October 1961; Recommendation No. 56 of the International Conference on Public Education, Geneva, July 1963; the Recommendation of the Council of the Organisation for Economic Co-operation and Development on Manpower as a Means for the Promotion of Economic Growth, Paris, May 1964; Recommendation No. 122 of the International Labour Organisation on employment policy, Geneva, 1964”.

51. *Commission Recommendation of 7 July 1965 to the Member States on the housing of workers and their families moving within the Community*

“9. At international level, the issue of the housing of migrant workers has already been the subject of various instruments such as: (a) ILO Convention No. 97 (Geneva, 1 July 1949) on migration for employment;

...

(c) the European Social Charter (Council of Europe, Turin, 18 October 1961): in Article 19 on the right of migrant workers and their families to protection and assistance, the Contracting Parties undertake, *inter alia*, to secure for such workers: “...c. accommodation”. The Commission has invited the member states to ratify this Charter, which came into force on 26 February 1965”.

52. *Commission Recommendation to the Member States on the activities of the social services in respect of workers moving within the Community (23 July 1962)*

“... The Commission has also taken due account of the ILO conventions and recommendations on migrant workers, particularly Convention No. 97 and Recommendation No. 86, which are the main reference documents. Without prejudice to the provisions of these documents relating to the subject at issue, the Commission has drawn up the following recommendation. For this purpose, it also drew on the European Social Charter, particularly with regard to the recognition of the right for everyone to benefit from social welfare services and, for migrants and their families, from the right to protection and assistance”.

3.4 The Charter in other EU instruments (non-legal documents)

53. *Strategic Framework on Human Rights and Democracy*¹²

In this document, the EU expressly calls on all member States “... to ratify and implement the key international human rights treaties, including core labour rights conventions, as well as regional human rights instruments.” In the same document it commits itself to “working with partners, multilateral forums and international organisations in the field of human rights and democracy” and to “continue its engagement with the invaluable human rights work of the Council of Europe and the OSCE.”

54. *EU Action Plan on Human Rights and Democracy*¹³ So as to act on the commitments contained in the aforementioned Strategic Framework, this document sets the following objectives:

- “Intensify the promotion of ratification and effective implementation of key international human rights treaties, including regional human rights instruments”.

¹² Council Document 11855/12 – Appendix II (25 June 2012).

¹³ *Ibid.*, Annex III. Based on available information the objectives laid down in the plan are implemented by the European Commission, the EU External Action Service and/or the member States.

- "Ensure that EU policy documents contain appropriate references to relevant UN and Council of Europe human rights instruments, as well as the EU Charter of Fundamental Rights".
- "Continue to engage with the Council of Europe and the OSCE; intensify dialogue with other regional organisations and support and engage with emerging regional organisations and mechanisms for the promotion of universal human rights standards".

55. In the same Plan, it is also recommended to "insert human rights in Impact Assessment, as and when it is carried out for legislative and non-legislative proposals, implementing measures and trade agreements that have significant economic, social and environmental impacts, or define future policies".

56. *European Parliament resolution of 13 March 2014 on Employment and social aspects of the role and operations of the Troika (ECB, Commission and IMF) with regard to euro area programme countries*¹⁴

"The European Parliament,

... - having regard to the revised European Social Charter, in particular its Article 30 on the right to protection against poverty and social exclusion,

... D. whereas Article 151 TFEU provides that action taken by the EU and its Member States must be consistent with the fundamental social rights laid down in the 1961 European Social Charter, and in the 1989 Community Charter of the Fundamental Social Rights of Workers, in order to improve, inter alia, the social dialogue; whereas Article 152 TFEU states: 'The Union recognises and promotes the role of the social partners at its level, taking into account the diversity of national systems. It shall facilitate dialogue between the social partners, respecting their autonomy;

... 26. Recalls that the Council of Europe has already condemned the cuts in the Greek public pension system, considering them to be a violation of Article 12 of the 1961 European Social Charter and of Article 4 of the Protocol thereto, stating that 'the fact that the contested provisions of domestic law seek to fulfil the requirements of other legal obligations does not remove them from the ambit of the Charter'; notes that this doctrine of maintaining the pension system at a satisfactory level to allow pensioners a decent life is generally applicable in all four countries and should have been taken into consideration;

... 37. Invites the Commission to ask the ILO and the Council of Europe to draft reports on possible corrective measures and incentives needed to improve the social situation in these countries, their funding and the sustainability of public finances, and to ensure full compliance with the European Social Charter, with the Protocol thereto and with the ILO's Core Conventions and its Convention 94, since the obligations deriving from these

¹⁴ European Parliament document (2014/2007(INI)).

instruments have been affected by the economic and financial crisis and by the budgetary adjustment measures and the structural reforms requested by the Troika;

... 40. Calls on the Troika and the Member States concerned to end the programmes as soon as possible and to put in place crisis management mechanisms enabling all EU institutions, including Parliament, to achieve the social goals and policies – also those relating to the individual and collective rights of those at greatest risk of social exclusion – set out in the Treaties, in European social partner agreements and in other international obligations (ILO Conventions, the European Social Charter and the European Convention of Human Rights); calls for increased transparency and political ownership in the design and implementation of the adjustment programmes; ...”.

In this context, it should be noted that the Committee was invited by the European Parliament to participate in the hearing on "Employment and social aspects of the Troika operations with regard to euro area programme countries" held in Brussels on 9 January 2014.

57. European Parliament resolution of 27 February 2014 on the situation of fundamental rights in the European Union (2012)

“The European Parliament,

... – having regard to the European Social Charter, as revised in 1996, and the case law of the European Committee of Social Rights,

... R. whereas the preamble of the Treaty on European Union, Articles 8, 9, 10, 19 and 21 of the EU Charter of Fundamental Rights and the case law established by the EU Court of Justice acknowledge the importance of fundamental social rights through their embodiment in cross-cutting principles of Community law, thus making it clear that the EU must guarantee fundamental rights and freedoms, such as trade union rights, the right to strike, and the right of association, assembly, etc., as defined in the European Social Charter, and whereas Article 151 of the Treaty on the Functioning of the European Union contains an explicit reference to fundamental social rights such as those set out in the European Social Charter;

... 8. Believes that in order to make full use of the potential of the treaties, there is a need to:

- (a) complete the process of acceding to the European Convention on Human Rights and immediately put in place the necessary instruments to fully accomplish this obligation, which is enshrined in the treaties, as it will provide an additional mechanism for enforcing the human rights of its citizens, inter alia with a view to ensuring the application by the Member States of the judgments given by the European Court of Human Rights, particularly ‘pilot judgments; accede, as called for by the Council of Europe, to the European Social Charter, signed in Turin on 18 October 1961 and revised in Strasbourg on 3 May 1996; and for Member States to

accede to and ratify the human rights conventions of the Council of Europe, to implement the already existing instruments of the *acquis communautaire* and to reconsider the opt-outs, which might risk affecting the rights of their citizens;

... 78. Underlines the fact that social rights are fundamental rights, as recognised by international treaties, the ECHR, the EU Charter of Fundamental Rights and the European Social Charter; highlights that these rights must be protected both in law and in practice to ensure social justice, notably in periods of economic crisis and austerity measures; underlines the importance of the right to dignity, occupational freedom and the right to work, the right to non-discrimination, including on the basis of nationality, protection in the event of unjustified dismissal, the right to health and safety at work, social security and social assistance, the right to health care, freedom of movement and of residence, the right to protection against poverty and social exclusion, through the provision of effective access to employment, adequate housing, training, education, culture and social and medical assistance, and in relation to remuneration and social benefits, guaranteeing a decent standard of living for workers and the members of their families, as well as of other conditions of employment and working conditions, autonomy of social partners, and freedom to join national and international associations for the protection of workers' economic and social interests and to bargain collectively;

... 81. Recommends that all Member States lift their remaining reservations on the European Social Charter as soon as possible; considers that Parliament should stimulate a permanent dialogue on progress made in this respect; believes that the reference to the ESC in Article 151 TFEU should be used more effectively, for example by including a social rights test in the impact assessments of the Commission and Parliament;

... 88. Calls on the Commission and the Member States to recognise that the right of workers to safe and healthy working conditions, as set out in Article 3 of the European Social Charter, is essential for workers to have the opportunity to live a decent life and to ensure that their fundamental rights are respected; ...”.

58. *European Parliament resolution of 19 May 2010 on the institutional aspects of the accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms*¹⁵

“The European Parliament,

... 30. Notes that accession by the Union to the ECHR signifies the recognition by the EU of the entire system of protection of human rights, as developed and codified in numerous documents and bodies of the Council of Europe; in this sense, accession by the Union to the ECHR constitutes an essential first step which should subsequently be complemented by accession by the Union to, inter alia, the European Social Charter, signed in Turin on 18 October 1961 and revised in Strasbourg on 3 May 1996, which

¹⁵ European Parliament document (2009/2241(INI)).

would be consistent with the progress already enshrined in the Charter of Fundamental Rights and in the social legislation of the Union;

... 31. Calls, further, for the Union to accede to Council of Europe bodies such as the Committee on the Prevention of Torture (CPT), the European Commission against Racism and Intolerance (ECRI) and the European Commission on the Efficiency of Justice (CEPEJ); stresses also the need for the Union to be involved in the work of the Commissioner for Human Rights, the European Committee of Social Rights (ECSR), the Governmental Social Committee and the European Committee on Migration, and asks to be duly informed of the conclusions and decisions of these bodies; ...”.

59. *Community Charter of the Fundamental Social Rights of Workers*

“... Whereas inspiration should be drawn from the Conventions of the International Labour Organization and from the European Social Charter of the Council of Europe; ...”

60. Appendix III presents a series of decisions of the Court of Justice of the European Union making express reference to the Charter. In this connection, specific mention can be made of the recent judgments of the Court of Justice, both that handed down in 2014 in case C-176/12 – containing an interpretation of Article 52 of the EU Charter of Fundamental Rights – and that pronounced in 2013 in case C-617/10, which gives an interpretation of Articles 50 and 51 of the EU Charter.

3.5 A first step in the direction of an integrated EU-Council of Europe approach to social rights.

61. Before concluding this section of the document, it seems important to mention the Memorandum of Understanding concluded between the EU and the Council of Europe in 2007 with a view to co-ordinating their work in areas including fundamental rights. This document states in particular that "the European Union regards the Council of Europe as the Europe-wide reference source for human rights" and will cite the relevant Council of Europe norms "as a reference" in its own documents. In this context, the EU institutions will have to take account of the decisions and conclusions resulting from the Council of Europe monitoring mechanisms when they are relevant.

62. The Memorandum also states that "while preparing new initiatives in this field, the Council of Europe and the European Union institutions will draw on their respective expertise as appropriate through consultations" and that "in the field of human rights and fundamental freedoms, coherence of Community and European Union law with the relevant conventions of the Council of Europe will be ensured. This does not prevent Community and European Union law from providing more extensive protection". In this context, the Council of Europe and the EU also agreed to base their co-operation "on the principles of indivisibility and universality of human rights, respect for the standards set out in this field by the fundamental texts of the United Nations and the Council of Europe, in particular the Convention for the Protection of Human Rights and

Fundamental Freedoms, and the preservation of the cohesion of the human rights protection system in Europe”.

Part III

Links between EU law and the Charter, as resulting from the Committee's case law – see table in Appendix II, column 4

63. The Committee takes account of EU law when it interprets the Charter. Furthermore, as highlighted in Part II (Section 2.2), the Revised Charter contains amendments to the original instrument of 1961 which allow for developments in Community law since that date and influence the manner in which the parties implement the Charter.

64. Examples are:

- the changes in women's rights so as to ensure full equality between women and men (with the sole exception of maternity protection measures), which draw directly on EU law;
- the minimum age for employment in certain occupations regarded as dangerous or unhealthy, which was not specified in the 1961 Charter, but was set at 18 years of age in the Revised Charter. This provision stems from Council Directive 94/33 of 22 June 1994 on the protection of young people at work (Article 7§2 of the Charter);
- Article 29 providing that the states must impose on employers an obligation of information and consultation of employee representatives in collective redundancy procedures, which is inspired inter alia by Directive 92/56/EEC of 24 June 1992 amending Directive 75/129/EEC on the approximation of the laws of the member States relating to collective redundancies.

65. The Committee has clarified the links between the rights enshrined in the Charter and those recognised in EU law. European Union law can play a positive role in the Charter's implementation; nonetheless, there is no presumption of conformity with the Charter when a state is in compliance with the directives, even if their subject matter comes within the scope of the Charter.

66. The fact that provisions of national law draw on an EU directive does not exempt them from conforming to the requirements of the Charter. It is true that the Committee is not competent for assessing the conformity of national situations with a European Union directive, nor the conformity of such a directive with the Charter. However, when the EU member states agree on binding measures that they apply to themselves by means of a directive, affecting the way in which they implement Charter rights, they should take account of the commitments they made when they ratified the European Social Charter both in drawing up that directive and in transposing it into their national law. It is ultimately for the Committee to assess compliance of a national situation with the

Charter, including in the event of transposition of a European Union directive into national law.

67. The Committee considers that neither the situation of social rights in the EU's legal order nor the procedures for establishing secondary legislation in these matters would justify a similar presumption, even rebuttable, as to the conformity of legal texts of the EU with the European Social Charter.

68. Whenever it has to assess situations where the states take into account or are bound by EU legal instruments, the Committee examines on a case-by-case basis whether the States Parties implement the rights guaranteed by the Charter in their national law.

69. Concerning health and safety at work, national law on prevention of and protection from risks must be in conformity with the international reference standards. A state is considered to fulfil this general obligation if it has transposed most of the Community *acquis* in the relevant field.

70. For example, concerning asbestos the international reference standards are Council Directive 83/477/EEC of 19 September 1983 on the protection of workers from the risks related to exposure to asbestos at work, as amended by Directive 2003/18/EC of the European Parliament and of the Council of 27 March 2003, and the ILO Convention on asbestos, No. 162 of 1986.

71. Concerning ionising radiation, national law must take account of the recommendations made by the International Commission on Radiological Protection (ICRP, the 1990 Recommendations, Publication 60), particularly as regards dose limits for occupational exposure and for persons who, without being assigned directly to jobs involving radiation exposure, may be exposed from time to time. The transposition of Council Directive 96/29/Euratom of 13 May 1996, laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation, is sufficient as this directive incorporates the norms of ICRP Publication 103.

72. Regarding working time, the Committee examined Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time. Although the recitals in the preamble to the directive make absolutely no reference to the European Social Charter, despite the fact that it has been ratified by all EU member states and the Treaty on European Union explicitly refers to it on several occasions, the Committee considered that the concerns underlying this directive undoubtedly demonstrated the authors' intention to comply with the rights enshrined in the Charter. It took the view that the practical arrangements agreed between the EU member states, if properly applied, would permit the concrete and effective exercise of the rights contained, in particular, in Articles 2§1 and 4§2 of the Revised Charter.

73. The Committee nonetheless noted that the directive provided for many exceptions and exemptions which might adversely affect respect for the Charter by states in practice. It accordingly considered that, depending on how EU member states translated those exceptions and exemptions into national law or combined them, the situation could be compatible or incompatible with the Charter.

74. Regarding the right to health, the Committee stated that it had taken account of a number of judgments of the European Court of Justice in its interpretation of the right to a healthy environment.

75. Concerning the right to family reunification, the Committee concluded that Directive 2003/86/EC on the right to family reunification contains provisions allowing the member states concerned to adopt and apply rules that infringe Article 19§6 of the Charter.

76. These concerned in particular:

- the length of residence requirement for migrant workers wishing to be joined by members of their family. In this connection, the Committee has always considered, taking account of the provisions of the European Convention on the Legal Status of Migrant Workers (ETS No. 93), that a length of more than one year is excessive and, consequently, in breach of the Charter.
- the exclusion of social assistance from the calculation of the income of a migrant worker who has applied for family reunification (in connection with the criteria relating to available means). The Committee noted that the Court of Justice of the European Union (CJEU) had already limited the possibility provided by the above-mentioned directive to restrict family reunification on the ground of available income (see the CJEU judgment of 4 March 2010 in the case of Chakroun, C-578/08, paragraph 48). In this respect the Committee pointed out that migrant workers who have sufficient income to provide for the members of their families should not be automatically denied the right to family reunification because of the origin of such income, in so far as they are legally entitled to the benefits they may receive. In view of the above and of the relevant case law of the European Court of Human Rights (see the judgment of 19 February 1996 in *Gül v. Switzerland*, No. 23218/94), the Committee considered that the above-mentioned extension was such as to prevent family reunification rather than facilitate it. It accordingly constituted a restriction likely to empty the obligation laid down in Article 19§6 of its substance and was consequently not in conformity with the Charter.
- the requirement that members of the migrant worker's family sit language and/or integration tests to be allowed to enter the country or pass these tests once in the country, with leave to remain depending on their success. On this subject, the Committee considered that, in so far as this requirement, because of its particularly stringent nature, discouraged applications for family reunification, it constituted a condition likely to prevent family reunification rather than facilitate it. It accordingly

represented a restriction likely to empty the obligation laid down in Article 19§6 of its substance and was consequently not in conformity with the Charter.

77. For posted agency workers, the Committee considered that Swedish law, as amended following a decision by the CJEU (judgment of 18 December 2007, *Laval un Partneri Ltd. v. Svenska Byggnadsarbetareförbundet, Svenska Byggnadsarbetareförbundets avdelning 1, Byggettan and Svenska Elektrikerförbundet* – Case No. C-341/0), did not promote the development of suitable machinery for voluntary negotiations between employers' organisations and trade unions, with a view to the regulation of terms and conditions of employment by means of collective agreements. In addition, the law imposed a disproportionate restriction on the free enjoyment of trade unions' right to engage in collective action, in so far as it prevented them from taking action to seek an improvement in the employment conditions of posted workers.

78. In addition, it did not secure for posted workers, for the period of their stay and work in the host state, a treatment not less favourable than that of the national workers of the host state in respect, inter alia, of remuneration and other employment and working conditions.

79. The table presented in Appendix II, column 4, focuses on the existing links between EU law and various Charter provisions, as reflected in the Committee's conclusions and decisions. As highlighted, in most cases these links are characterised by convergence between the two standard-setting systems. However, in a small yet significant number of cases, there is evidence of conflict.

Final summary

80. Several proposals have been made for establishing more effective links between EU law and the law of the Charter. The time seems to have come to consider their implementation. The Committee sets out below some proposals for discussion and action, which it hopes will help to launch a process of dialogue with the Commission with a view to increasing areas of convergence and reducing areas of divergence.

81. Firstly, possible accession by the EU to the Charter along the lines of what is taking shape for the European Convention on Human Rights would enable greater account to be taken of the Charter in the development and implementation of EU law. The reasons put forward regarding the European Convention on Human Rights apply mutatis mutandis to possible accession to the Charter. Proposed by the European Parliament, this solution has been the subject of at least one detailed study¹⁶, but should be looked at closely to assess the practical effects depending on any arrangements adopted. However, there does not yet seem to be political consensus concerning the proposal and the solution can therefore only be considered for the medium term.

¹⁶ Olivier De Schutter, L'adhésion de l'Union européenne à la Charte sociale européenne, EUI Working Paper LAW No. 2004/11, version révisée en juin 2014, Université catholique de Louvain.

82. In the meantime, other practical arrangements which could lead to greater convergence between the two legal orders do seem feasible.

83. For instance, the EU could encourage its member states to harmonise their commitments, in particular by all ratifying the revised Charter and all accepting all the provisions in the Charter which are most directly related in terms of substance to the provisions of EU law and the competences of the EU. For example, these include Articles 4§3 (equal pay for women and men) and 2§1 (reasonable working hours).

84. It would be useful for a definition of a kind of 'Community core' within the Charter to be drawn up so as to give EU member states clear indications in this respect.

85. A commitment of all EU member states concerning the collective complaints procedure would also help to ensure greater balance between EU members in terms of taking the Charter on board, as the current difference between those which have accepted the procedure and those which have not would disappear.

86. In addition, if the Charter was taken into account by EU lawmakers (Commission, Council and Parliament), this would ensure that any new EU legislation increased the convergence between the two legal orders.

87. Lastly, the links between the Committee and the Fundamental Rights Agency could be extended with a view to enabling the Committee to make still greater use than at present of the Agency's research in finding out more about and better understanding the actual situation of social rights in states.

Appendices

- I Acceptance of the provisions of the Charter treaties by the EU member states
- II Charter provisions and corresponding sources of primary and secondary EU law (identified on the basis of the Committee's case-law) and links between these provisions, secondary law and the case-law of the Court of Justice, as reflected in the case-law of the Committee.
- III List of judgments of the EU Court of Justice making express reference to the Charter

Appendix 1

Acceptance of provisions of Charter treaties by European Union Member States

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

accepted/ accepté not accepted/ non accepté

Articles 1-4 Para.	Article 1				Article 2							Article 3				Article 4				
	1	2	3	4	1	2	3	4	5	6	7	1	2	3	4	1	2	3	4	5
Austria/Autriche																				
Belgium/Belgique																				
Bulgaria/Bulgarie																				
Cyprus/Chypre																				
Estonia/Estonie																				
Finland/Finlande																				
France																				
Greece/Grèce																				
Hungary/Hongrie																				
Ireland/Irlande																				
Italy/Italie																				
Latvia/Lettonie																				
Lithuania/Lituanie																				
Malta/Malte																				
Netherlands/Pays-Bas																				
Portugal																				
Romania/Roumanie																				
Slovakia/Slovaquie																				
Slovenia/Slovénie																				
Sweden/Suède																				

Articles 5-9 Para.	Art.	Article 6				Article 7										Article 8					Art.	
	5	1	2	3	4	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	9	
Austria/Autriche																						
Belgium/Belgique																						
Bulgaria/Bulgarie																						
Cyprus/Chypre																						
Estonia/Estonie																						
Finland/Finlande																						
France																						
Greece/Grèce																						
Hungary/Hongrie																						
Ireland/Irlande																						
Italy/Italie																						
Latvia/Lettonie																						
Lithuania/Lituanie																						
Malta/Malte																						
Netherlands/Pays-Bas																						
Portugal																						
Romania/Roumanie																						
Slovakia/Slovaquie																						
Slovenia/Slovénie																						
Sweden/Suède																						

Articles 10-15 Para.	Article 10					Article 11			Article 12				Article 13				Art. 14		Article 15		
	1	2	3	4	5	1	2	3	1	2	3	4	1	2	3	4	1	2	1	2	3
Austria/Autriche																					
Belgium/Belgique																					
Bulgaria/Bulgarie																					
Cyprus/Chypre																					
Estonia/Estonie																					
Finland/Finlande																					
France																					
Greece/Grèce																					
Hungary/Hongrie																					
Ireland/Irlande																					
Italy/Italie																					
Latvia/Lettonie																					
Lithuania/Lituanie																					
Malta/Malte					17										18						
Netherlands/Pays-Bas																					
Portugal																					
Romania/Roumanie																					
Slovakia/Slovaquie																					
Slovenia/Slovénie																					
Sweden/Suède																					

¹⁷ Alinéas a. et d. acceptés.

¹⁸ Alinéa a. accepté.

Articles 16-19 Para	Art	Art. 17		Article 18				Article 19											
	16	1	2	1	2	3	4	1	2	3	4	5	6	7	8	9	10	11	12
Austria/Autriche																			
Belgium/Belgique																			
Bulgaria/Bulgarie																			
Cyprus/Chypre																			
Estonia/Estonie																			
Finland/Finlande																			
France																			
Greece/Grèce																			
Hungary/Hongrie																			
Ireland/Irlande																			
Italy/Italie																			
Latvia/Lettonie																			
Lithuania/Lituanie																			
Malta/Malte																			
Netherlands/Pays-Bas																			
Portugal																			
Romania/Roumanie																			
Slovakia/Slovaquie												19							
Slovenia/Slovénie																			
Sweden/Suède																			

¹⁹ Alinéas a. and b. acceptés.

Articles 20-31 Para.	Art. 20	Art. 21	Art. 22	Art. 23	Art. 24	Art. 25	Art. 26		Art. 27			Art. 28	Art. 29	Art. 30	Article 31			
							1	2	1	2	3				1	2	3	
Austria/Autriche																		
Belgium/Belgique																		
Bulgaria/Bulgarie																		
Cyprus/Chypre			20															
Estonia/Estonie																		
Finland/Finlande																		
France																		
Greece/Grèce																		
Hungary/Hongrie																		
Ireland/Irlande									21									
Italy/Italie																		
Latvia/Lettonie																		
Lithuania/Lituanie																		
Malta/Malte																		
Netherlands/Pays-Bas																		
Portugal																		
Romania/Roumanie																		
Slovakia/Slovaquie																		
Slovenia/Slovénie																		
Sweden/Suède																		

²⁰ Alinéa b. accepté .

²¹ Alinéas a. et b. acceptés.

Acceptance of provisions of the European Social Charter (1961) and of the Additional Protocol (1988)
Acceptation des dispositions de la Charte sociale européenne (1961) et du Protocole additionnel (1988)

accepted/ accepté not accepted/ non accepté

Articles 1-6	Article 1				Article 2					Article 3			Article 4					Art. 5	Article 6					
	Para.	1	2	3	4	1	2	3	4	5	1	2	3	1	2	3	4		5	1	2	3	4	
Croatia/Croatie																								
Czech Republic/République tchèque																								
Denmark/Danemark																								
Germany/Allemagne																								
Iceland/Islande																								
Luxembourg																								
Poland/Pologne																								
Spain/Espagne																								
United Kingdom/Royaume-Uni																								

Articles 7-11	Article 7										Article 8				Art. 9	Article 10				Article 11				
	Para.	1	2	3	4	5	6	7	8	9	10	1	2	3		4	1	2	3	4	1	2	3	
Croatia/Croatie																								
Czech Republic/République tchèque														22										
Denmark/Danemark																								
Germany/Allemagne																								
Iceland/Islande																								
Luxembourg																								
Poland/Pologne														23										
Spain/Espagne														24										
United Kingdom/Royaume-Uni																								

²² Czech Republic denounced paragraph 4 on 25 March 2008. / *La République tchèque a dénoncé le paragraphe 4 le 25 mars 2008.*

²³ Poland denounced paragraph 4 on 27 January 2011. / *La Pologne a dénoncé le paragraphe 4 le 27 janvier 2011.*

²⁴ Spain denounced sub-paragraph b with effect from 5 June 1991. / *L'Espagne a dénoncé l'alinéa b à partir du 5 juin 1991.*

Articles 12-18 Para.	Article 12				Article 13				Article 14		Article 15		Art. 16	Art. 17	Article 18			
	1	2	3	4	1	2	3	4	1	2	1	2			1	2	3	4
Croatia/Croatie																		
Czech Republic/ République tchèque																		
Denmark/Danemark																		
Germany/Allemagne																		
Iceland/Islande																		
Luxembourg																		
Poland/Pologne																		
Spain/Espagne																		
United Kingdom/ Royaume-Uni																		

	Article 19									
	1	2	3	4	5	6	7	8	9	10
Croatia/Croatie										
Czech Republic/ République tchèque										
Denmark/Danemark										
Germany/Allemagne										
Iceland/Islande										
Luxembourg										
Poland/Pologne										
Spain/Espagne										
United Kingdom/ Royaume-Uni										

**Additional Protocol/
Para.**

Additional Protocol/ Protocole additionnel			
Art 1	Art 2	Art 3	Art 4

Appendix 2

Table relating to the provisions of the Charter (column 1) and corresponding sources of primary law (column 2) and secondary law of the EU identified on the basis of Committee's case-law (column 3) and the link between these provisions, secondary law and European Union Court of Justice's case-law, as it emerges from Committee's case-law (column 4)²⁴

²⁴ In column 4, the type of link is indicated after the text on the Committee's assessment by the words COMPATIBILITY or INCOMPATIBILITY

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4
Charter Provisions	Primary Law of the EU	Secondary Law of the EU / Case-law of the European Union Court of Justice (EUCJ) assessed by the Committee	Conclusions and decisions of the Committee relating to the secondary law and EUCJ's case-law
<p>« Article 1 – The right to work</p> <p>With a view to ensuring the effective exercise of the right to work, the Parties undertake:</p> <p>to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;</p>	<p>Article 151 (ex-Article 136 TEC)</p> <p>« The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion. »</p> <p>Article 5 §2 CFR</p> <p>« 2. No one shall be required to perform forced or compulsory labour. »</p> <p>Article 15 § 1 CFR</p> <p>« 1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation. »</p> <p>Article 29 CFR</p>		

	« Everyone has the right of access to a free placement service. »		
§2 to protect effectively the right of the worker to earn his living in an occupation freely entered upon;		<p>Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast)</p> <p>Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions</p> <p>Directive 2000/78/EC of the Council, of 27 November 2000 establishing a general framework for equal treatment in employment and occupation</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XIX-1 (2008), Austria</p> <p>The Committee recalls that under article 1§2 of the Charter remedies available in cases of discrimination must be adequate, proportionate and dissuasive. It therefore considers that the imposition of pre-defined upper limits to compensation that may be awarded not to be in conformity with the Charter as in certain cases these may preclude damages from being awarded which are commensurate with the loss suffered and not sufficiently dissuasive to the employer (Conclusions XVIII-1). The Committee notes that, according to the report, the courts may order compensation for pecuniary and non-pecuniary damage and a return to a situation of non-discrimination. However, this compensation may be subject to an upper limit. According to the report, in accordance with Directive 2006/54/EC an upper limit of € 500 is set in cases where the damage caused by discrimination consists solely in the application being rejected immediately and the applicant would not have been successful anyway, even if the application had been considered, because other candidates were more suitable. The Committee considers that the imposition of a pre-defined upper limit to compensation in cases of discrimination when considering an application for an employment is not in conformity with Article 1§2 of the Charter.</p> <p style="text-align: center;">-INCOMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVIII-1 (2006), Denmark</p> <p>As regards the position of women in employment the Committee refers to its conclusion under Article 1 of the Additional Protocol (Conclusions XVII-2). It asks the next report to provide information on measures taken to promote the equality of women in employment, as well as all measures taken to transpose Council Directive 2002/73/EC of 23 September 2002 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVIII-1 (2006), Luxembourg</p> <p>The Committee notes that according to the report Council Directives 2000/78/EC of 27 November 2000 establishing a general frame work for</p>

		<p>Directive 2000/43/CE of the Council of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin</p> <p>European Court of Justice (ECJ): Judgment of the Court M. Helen Marshall v Southampton and South-West Hampshire Area</p>	<p>equal treatment in employment and occupation and Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of race or ethnic origin are currently being transposed, which will increase the protection against discrimination in employment.</p> <p>-COMPATIBILITY-</p> <p>SUD Travail Affaires sociales v. France, Complaint No. 24/2004, Decision on the merits of 8 November 2005</p> <p>27. As regards the alleged absence of non-discrimination provisions the Committee notes the Government's argument that Act No. 2004-1486 which created the High Authority for Combating discrimination and Promoting Equality (HALDE) and transposed Council Directive 2000/43/EC on racial discrimination brings the situation into conformity with Article 1§2 of the revised Charter in respect of public servants without tenure and employees of ANPE, in that the provisions of the Act apply to all employees, no matter what their employment status. However, the Committee is obliged to note that from the Act's own wording the prohibition of discrimination following from the Act relates specifically to discrimination on grounds of "national origin or real or supposed membership or non-membership of an ethnic group or race". Recalling that Article E of the revised Charter makes reference to grounds such as race, colour, sex, language, religion, political or other opinion, national extraction, association with a national minority, birth or other status, the Committee does not consider that the act in itself satisfies the requirements of Article 1§2 of the revised Charter.</p> <p>-INCOMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVIII-1 (2006), Luxembourg</p> <p>The Committee notes that according to the report Council Directives 2000/78/EC of 27 November 2000 establishing a general frame work for equal treatment in employment and occupation¹ and Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of race or ethnic origin² are currently being transposed, which will increase the protection against discrimination in employment.</p> <p>-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2012, Finland</p> <p>The Committee wishes to clarify its position on the issue of ceilings to</p>
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		<p>Health Authority. (N° 2), Case C-271/91, Reference for a preliminary ruling of 2 August 1993.</p>	<p>compensation in discrimination cases (1The Committee refers in this respect to the decision of the Court of Justice of the European Union of 2 August 1993 in the case of Marshall v. Southampton and South West Hampshire Area Health Authority (No. 2).) the Committee considers that compensation for all acts of discrimination including discriminatory dismissal, must be both proportionate to the loss suffered by the victim and sufficiently dissuasive for employers. Any ceiling on compensation that may preclude damages from making good the loss suffered and from being sufficiently dissuasive is proscribed.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>§3. to establish or maintain free employment services for all workers;</p> <p>§4 to provide or promote appropriate vocational guidance, training and rehabilitation. »</p>			
<p>« Article 2 : The right to just conditions of work</p> <p>With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake</p>	<p>Article 151§1 TFEU (ex-article 136 TEC)</p> <p>«The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and</p>		

	<p>labour, the development of human resources with a view to lasting high employment and the combating of exclusion.»</p> <p>Article 31 CFR « 1. Every worker has the right to working conditions which respect his or her health, safety and dignity.</p> <p>2. Every worker has the right to limitation of maximum working hours, to daily and weekly rest periods and to an annual period of paid leave »</p>		
<p>Article 2§1 to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;</p>		<p>Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2010, Italy</p> <p>However, in its previous conclusion (Conclusions 2007) the Committee found that the situation was not in conformity with Article 2§1 because working hours in the fishing industry could reach up to 72 hours per week. The report underlines that working time in this industry is governed by Community directives, inter alia, Directive 2003/88/EC concerning certain aspects of the organisation of working time. Article 21 of the latter sets a limit of 14 hours of work per day and 72 hours per week for workers on sea-going vessels. These same limits have accordingly been transposed into the relevant domestic regulations (Legislative Decree No. 66 of 8 April 2003).</p> <p>The Committee refers to its Introductory Observation on the relationship between European Union Law and the European Social Charter in collective complaint No. 55/2009, <i>Confédération Générale du Travail (CGT) v. France</i>, decision on the merits of 23 June 2010, paragraph 38. It reiterates that the fact that a domestic regulation is based on a European Union Directive does not remove it from the ambit of an assessment under Article 2 of the Charter. Therefore, exceptions expressly provided by Directive 2003/88/EC must be assessed on a case-by-case basis as they are applied by the States Parties.</p> <p>In this respect, the Committee recalls that weekly working time of more than sixty hours is too long to be considered as reasonable under this provision. This is a limit which cannot be exceeded even in the context of flexibility</p>

schemes, where compensation is granted by rest periods in other weeks, or in specific occupations. It therefore finds that Section 18 of Legislative Decree No. 66 of 8 April 2003, which sets working time limits for workers in the fishing industry, does not comply with the Charter.

-INCOMPATIBILITY-

Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XIX-3 (2010), Germany

The report explains that Article 7§8 of the Working Time Act establishes, in accordance with Directive 2003/88/EC concerning certain aspects of the organization of working time, that when a reference period is extended by collective agreement, weekly hours should not exceed on average 48 over a 12 month period. When a collective agreement sets a reference period longer than one year, the working week will be shorter than the latter. Therefore, flexibility only exists to the extent that weekly working time does not exceed 48 hours on average during one year.

The Committee also refers to its Introductory Observation on the relationship between European Union Law and the European Social Charter in collective complaint No. 55/2009, *Confédération Générale du Travail (CGT) v. France*, decision on the merits of 23 June 2010, paragraph 38. It reiterates that the fact that a domestic regulation reproduces or is inspired on a European Union

Directive cannot prejudice its conformity with the Charter. Therefore, irrespective of whether German legislation is in conformity or contravenes Directive 2003/88/EC on the question of reference periods, a separate assessment on compliance by States Parties with Article 2§1 is carried out by the Committee.

Finally, the Committee notes that the average number of actual hours worked per week – in fulltime employment – was 41.1 (in 2007), which is above the European Union average of 40 hours¹. It asks the next report to provide information on the supervision of working time regulations by the Labour Inspection, including the number of breaches identified and penalties imposed in this area.

-INCOMPATIBILITY-

Confédération française de l'Encadrement CFE-CGC v. France, Complaint No. 56/2009, Decision on the merits of 23 June 2010

28. The main reference in European Union Law remains to date Directive 2003/88/EC of the European Parliament and of the Council of 4 November

2003 concerning certain aspects of the organisation of working time (Official Journal of the European Union L299-9, 18 November 2003).

29. The Government of Finland submitted observations in which it draws the attention of the Committee to Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time. In respect of another complaint examined in parallel by the Committee and which also deals with the annual working time system (CGT v. France, complaint No. 55/2009), the French Government considers that the national situation is in compliance with the aforementioned Directive and, as a result, that it is in conformity with the Charter.

30. In reply to this argument, the Committee reiterates that the fact that the provisions at stake are based on a European Union directive does not remove them from the ambit of the Charter (CFE-CGC v. France, complaint No. 16/2003, decision on the merits of 12 October 2004, §30; see also, *mutatis mutandis*, *Cantoni v. France*, judgment of the European Court of Human Rights of 15 November 1996, §30).

31. In this regard, the Committee has already stated that it is neither competent to assess the conformity of national situations with a directive of the European Union nor to assess compliance of a directive with the European Social Charter. However, when member states of the European Union agree on binding measures in the form of directives which relate to matters within the remit of the European Social Charter, they should – both when preparing the text in question and when transposing it into national law – take full account of the commitments they have taken upon ratifying the European Social Charter. It is ultimately for the Committee to assess compliance of a national situation with the Charter, including when a European Union directive has been transposed into domestic law.

37. In the instant case, the Committee must first indicate how it will assess conformity with the European Social Charter of the situation in states bound by Directive 2003/88/EC of the European Parliament and the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

38. The Committee notes from the outset that, whilst the European Social Charter has been ratified by all member states of the European Union and the Treaty on the European Union explicitly refers to it on several occasions, the preamble of this Directive does not make any reference to it.

39. Notwithstanding this oversight, the Committee considers that the concerns underlying the text of this Directive undoubtedly show the authors'

		<p>Court of Justice of the European Communities (ECJ): SIMAP, Case C-303/98, reference for a preliminary ruling of 3 October 2000 ; Jaeger, Case C-151/02, reference for a preliminary ruling of 9 September 2003 ; Dellas, Case C-14/04, reference for a preliminary ruling of 1 December 2005</p> <p>Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in</p>	<p>intention to comply with the rights enshrined in the Charter. It believes that the practical arrangements agreed between member states of the European Union, if properly applied, do not prevent a concrete and effective exercise of the rights contained in particular in Articles 2§1 and 4§2 of the Revised Charter.</p> <p>40. However, the Committee notes that the Directive at stake provides for many exceptions and exemptions which may adversely affect respect for the Charter by States in practice. It thus considers that depending on how Member States of the European Union make use of those exemptions and exceptions or combine them, the situation may be compatible or incompatible with the Charter.</p> <p style="text-align: center;">-INCOMPATIBILITY-</p> <p>Confédération Générale du Travail (CGT) v. France, Complaint No. 55/2009, Decision on the merits of 23 June 2010</p> <p>See §§ 28 to 31 and §§ 37 to 40 of the Complaint No. 56/2009 mentioned above</p> <p style="text-align: center;">-INCOMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XIX-3 (2010), Czech Republic</p> <p>Legislation on on-call work was amended during the reference period (in line with European Court of Justice rulings in the cases of SIMAP, Jaeger and Dellas). The Labour Code now considers time spent on-call at the workplace as working time. The Committee takes note of this development, which brings the situation into conformity with the Charter on this point.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2007, Estonia</p> <p>Regarding the working hours of crew members on vessels engaged in short sea shipping the report states that the working hours of seafarers are in compliance with international norms such as the Council Directive 1999/63/EC which limits the working hours of this category to 14 in any 24 hours period and 72 in any seven-day period. According to the report there is no national statistics on the number of crew members on transition</p>
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		<p>the European Union (FST) - Annex: European Agreement on the organisation of working time of seafarers</p> <p>Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC - Annex : Framework agreement on part-time work</p> <p>Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time</p>	<p>vessels. The Committee recalls in this connection that working hours of 72 hours a week are not in conformity with Article 2§1 of the Revised Charter.</p> <p style="text-align: center;">-INCOMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVI-2 (2004), Spain</p> <p>Finally, the Committee notes that Royal Decree Law No. 15/1998 implements Council Directive 97/81/EC and establishes regulations which according to the report guarantee such principles as equal treatment and non-discrimination of part-time workers, the voluntary nature of access to part-time work and effective social protection.</p> <p style="text-align: center;">-INCOMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2007, Italy</p> <p>The Committee notes from the report that by Legislative Decree No. 66/2003 Italy transposed Council Directives 93/104/CE and 2000/34/CE which regulate the working time in public and private sectors.</p> <p>The Committee notes that weekly working hours fixed by collective agreements are as a rule aligned with the weekly limit of 40 hours as established by Section 3 of the Legislative Decree No. 66/2003. However, Articles 16, 17 and 18 identify several sectors where derogations are permitted. The Committee notes that in the fishing industry different limits to daily and weekly working hours can be established, such as up to 14 hours a day or 72 hours a week. The Committee reiterates that 72 hours are excessive and therefore not in conformity with Article 2§1 of the Charter.</p> <p style="text-align: center;">-INCOMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVIII-2 (2007), Malta</p> <p>In its previous conclusion the Committee found that the situation in Malta was not in conformity with Article 2§1 of the Charter due to the absence of limits on overtime. In this connection it notes that even though the Employment and Industrial Relations Act came into force transposing the EC Directive 93/104/EC, it has not been demonstrated that the right to reasonable daily and weekly hours is guaranteed to workers.</p> <p style="text-align: center;">-INCOMPATIBILITY-</p>
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			<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVI-2 (2004), Belgium</p> <p>As far as the so-called "extended flexibility" scheme is concerned, the report states that the upper limits to weekly working hours following from Collective Agreement No. 46/1990 in respect of continuous shift work have been introduced into Section 27 of the Employment Act of 16 March 1971 by Act of 4 December 1998 transposing certain provisions of Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time¹. Henceforth, weekly working time in continuous shift work under the extended flexibility scheme therefore cannot exceed 50 hours and if work is performed over all 7 days of the week with 8 hours per day it cannot exceed 56 hours. On this basis, and taking into account that the large majority of working time regimes under the extended flexibility scheme relates to continuous shift work, the Committee considers that the situation is in conformity with the Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Confédération française de l'Encadrement CFE-CGC v. France, Complaint No. 16/2003, Decision on the merits of 12 October 2004</p> <p>29. According to the Government, the only change introduced by the Fillon II Act concerns the definition of those managers who can conclude an annual working days agreement. The only criterion now is that of autonomy in organising their work schedule (Article 212-15-3 III of the Labour Code). It considers that this criterion is compatible with Council Directive 93/104/EC of 23 November 1993, and as such is compatible with the Charter.</p> <p>30. In response to the Government's argument that compliance with Community law automatically implies that a situation is in conformity with the Charter, the Committee states that the fact that the provision at stake is based on a Community Directive does not remove it from the ambit of Article 2 of the Charter (see, mutatis mutandis, European Court of Human Rights, case <i>Cantoni v. France</i>, judgment of 22 October 1996, § 30.)</p> <p style="text-align: center;">-INCOMPATIBILITY-</p>
<p>Article 2§2 to provide for public</p>			

<p>holidays with pay;</p> <p>Article 2§3 to provide for a minimum of four weeks' annual holiday with pay;</p> <p>Article 2§4 to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;</p>			
<p>Article 2§5 to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest;</p>		<p>Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working</p> <p>Directive 93/104/EC of the Council, of 23 November 1993 concerning certain aspects of the organization of working time</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XIX-3 (2010), Greece</p> <p>The rules on weekly rest periods for seamen are set out in the international Convention on Work in the Fishing Sector and Directive 2003/88/EC of 4 November 2003.</p> <p>the Committee notes that domestic staff and seamen are not covered by the legislation guaranteeing a weekly rest period. It considers that the situation is not in conformity in this respect.</p> <p style="text-align: center;">-INCOMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVI-2 (2004), Portugal</p> <p>The Committee notes from the Portuguese report that Section 6 of Act No. 73/98 transposing Council Directive 93/104/EC provides for one weekly day of rest in continuation of the daily rest period (i.e. at least 35 hours).</p>

			<p>The Committee concludes that the situation in Portugal is in conformity with Article 2§5 of the Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>Article 2§6 to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;</p> <p>Article 2§7 to ensure that workers performing night work benefit from measures which take account of the special nature of the work. »</p>		<p>Directive 91/533/EEC of the Council, of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2010, Sweden</p> <p>According to the report, on 1 July 2006 several amendments were made to the Employment Protection Act, and in particular section 6a on employment contracts, to comply with Council Directive 91/533/EEC on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship. The changes make it obligatory to specify in employment contracts employees' duties and their professional or official titles.</p> <p>The Committee concludes that the situation in Sweden is in conformity with Article 2§6 of the Revised Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>« Article 3 The right to safe and healthy working conditions</p> <p>With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers' and</p>	<p>Article 151§1 TFUE (ex-article 136 TEC)</p> <p>« The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall</p>		

<p>workers' organisations:</p>	<p>have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion. »</p> <p>Article 31 §1 CFR «1. Every worker has the right to working conditions which respect his or her health, safety and dignity. »</p>		
<p>Article 3§1 to formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment. The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, particularly by minimising the causes of hazards inherent in the working environment;</p>		<p>Directive 2002/14/EC the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation</p> <p>Directive 89/391/EEC of the Council, of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Estonia</p> <p>The Committee takes note of this information. It asks that the next report provide information on the amendments to the Act of 16 June 1993 on employees' representatives introduced by the Act of 13 December 2006 which transposed Directive No. 2002/14/CE of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Lithuania</p> <p>Another source indicates that transposition of Council Directive 89/391/EEC of 12 June 1989 on health and safety at work, which incorporates ILO Convention No. 155 concerning Occupational Safety and Health and the Working Environment (1981), was supplemented by Acts No. XI-1202 of 12 February 2010 and XI-2045 of 5 June 2012 amending Act No. IX-1672.</p> <p>The Committee takes note of these particulars. It confirms the existence of a policy whose aim is to pursue and preserve a culture of prevention as regards safety and health at work. It asks that the next report give</p>

			<p>information on the way in which the policy is regularly reviewed in the light of changing risks.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>Article 3§2 to issue safety and health regulations;</p>		<p>Directive 2012/11/EU of the European Parliament and of the Council of 19 April 2012 amending Directive 2004/40/EC on minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents</p> <p>Directive 2010/52/EU if the Commission of 11 August 2010 amending, for the purposes of adaptation of their technical provisions, Council Directive 76/763/EEC relating to passenger seats for wheeled agricultural or forestry tractors and Directive 2009/144/EC of the European Parliament and of the Council on certain components and characteristics of wheeled agricultural or forestry tractors</p> <p>Directive 2010/35/EU of the European Parliament and of the Council of 16 June 2010 on transportable pressure equipment and repealing</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XX-2 (2013), Greece</p> <p>The Committee asks that the next report provide updated information with respect to the transposition of the Directive 2012/11/EU, amending Directive 2004/40/EC.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Italy</p> <p>According to another source, during the reference period, the Commission Directive 2010/52/EU of 11 August 2010 amending, for the purposes of adaptation of their technical provisions, Council Directive 76/763/EEC relating to passenger seats for wheeled agricultural or forestry tractors and Directive 2009/144/EC of the European Parliament and of the Council on certain components and characteristics of wheeled agricultural or forestry tractors was transposed by the Decree of the Ministry of Infrastructure and Transport of 7 April 2011.</p> <p>The Committee takes note of this information. It notes that, according to another source,² the number of relevant ILO Conventions ratified by Italy is relatively high and most Community occupational health and safety law has been incorporated into domestic law. The Committee considers therefore that the current legislation and regulations meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the general introduction to Conclusions XIV-2 (pp. 37-38) be specifically covered, in line with the level set by international reference standards.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Italy</p> <p>The Committee takes note of this information. It notes that, according to another source, (...) is relatively high and most Community occupational</p>

		<p>Council Directives 76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC and 1999/36/EC</p> <p>Directive 2010/32/EU of the Council of 10 May 2010 implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector concluded by HOSPEEM and EPSU</p> <p>Directive 2009/161/EU of the Commission of 17 December 2009 establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Commission Directive 2000/39/EC</p>	<p>health and safety law has been incorporated into domestic law. The Committee considers therefore that the current legislation and regulations meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the general introduction to Conclusions XIV-2 (pp. 37-38) be specifically covered, in line with the level set by international reference standards. It nevertheless points out that the report must provide full, up-to-date information on changes in the legislation and regulations during the reference period and asks for information in the next report on the measures taken to transpose the Directive 2010/35/EU of the European Parliament and of the Council of 16 June 2010 on transportable pressure equipment</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Italy</p> <p>The Committee considers therefore that the current legislation and regulations meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the general introduction to Conclusions XIV-2 (pp. 37-38) be specifically covered, in line with the level set by international reference standards. It nevertheless points out that the report must provide full, up-to-date information on changes in the legislation and regulations during the reference period and asks for information in the next report on the measures taken to transpose the Directive 2010/32/EU of 10 May 2010 implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Italy</p> <p>The Committee takes note of this information. It notes that, according to another source,² the number of relevant ILO Conventions ratified by Italy is relatively high and most Community occupational health and safety law has been incorporated into domestic law. The Committee considers therefore that the current legislation and regulations meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the general introduction to Conclusions XIV-2 (pp. 37-38) be specifically covered, in line with the level set by international reference standards. It nevertheless points out that the report must provide full, up-to-date information on changes in the legislation and regulations during the reference period and asks for information in the next report on the measures taken to transpose the Commission Directive 2009/161/EU of 17 December 2009 establishing a third list of indicative occupational exposure</p>
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		<p>European Parliament and of the Council of 20 June 2007 amending Council Directive 89/391/EEC, its individual Directives and Council Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC with a view to simplifying and rationalising the reports on practical implementation</p> <p>Directive 2006/117/EURATOM of the Council, of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel</p> <p>Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation)</p>	<p>national reports - Conclusions XX-2 (2013), Greece</p> <p>The Committee asks that the next report provide updated information with respect to the transposition of: (...)c) Directive 2007/30/EC amending Council Directive 89/391/EEC, its individual Directives and Council Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC with a view to simplifying</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Slovenia</p> <p>Council Directive 2006/117/EURATOM of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel was transposed by Ministry of Energy and Environment Order No. 22/2009 of 16 March 2009 on the transboundary shipment of radioactive waste and spent fuel (...).</p> <p>In view of this information, the Committee considers that the level of prevention and protection from risks related to asbestos and ionizing radiation comply with Article 3§2 of the Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Italy</p> <p>Directive 2006/25/EC of the European Parliament and the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) was transposed into domestic law by Legislative Decree No. 81/2008. (...)</p> <p>In the light of the above information, the Committee considers that levels of prevention and protection in relation to the establishment, alteration and upkeep of workstations comply with the Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XIX-2 (2009), Greece</p>
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		<p>Directive 2006/15/EC of the Commission of 7 February 2006 establishing a second list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Directives 91/322/EEC and 2000/39/EC</p>	<p>The Committee asks to be kept informed about the future harmonisation of domestic law with Directive 2006/25/EC regarding the risks arising from electromagnetic fields and artificial optional radiation.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Italy</p> <p>The report does not contain any information on the incorporation into domestic law of international reference standards covering occupational hazards during the reference period. According to another source,¹ during the reference period, Commission Directive 2006/15/EC of 7 February 2006 establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC was incorporated into domestic law by Legislative Decree No. 81/2008 of 9 April 2008 implementing Act No. 123 of 3 August 2007 on the protection of occupational health and safety and the Decree of the Ministry of Labour and Social Security of 4 February 2008 transposing Directive No. 2006/15/EC into domestic law (...).</p> <p>The Committee takes note of this information. It notes that, according to another source,² the number of relevant ILO Conventions ratified by Italy is relatively high and most Community occupational health and safety law has been incorporated into domestic law. The Committee considers therefore that the current legislation and regulations meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the general introduction to Conclusions XIV-2 (pp. 37-38) be specifically covered, in line with the level set by international reference standards.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2009, Belgium</p> <p>In reply to the Committee's question concerning the protection of workers against chemical substances and the transposition of the relevant EU directive, the report confirms that European Commission Directive 2006/15 establishing a second list of indicative occupational exposure limit values regarding carcinogenic substances and mutagens was transposed into domestic law by a Royal Decree of 17 May 2007.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Directive 2005/88/EC of the</p> <p>Monitoring procedure of the implementation of the Charter based on</p>
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		<p>European Parliament and of the Council of 14 December 2005 amending Directive 2000/14/EC on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors</p> <p>Directive 2004/40/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (18th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC)</p>	<p>national reports - Conclusions 2013, Romania</p> <p>Government Ordinance No. 1756/2007 on limitations of noise emission levels generated by equipment for use outdoors transposed Directive 2005/88/EC of the European Parliament and of the Council of 14 December 2005 amending Directive 2000/14/EC of the European Parliament and of the Council of 8 May 2000 on the approximation of the laws of the Member States relating to the noise emission in the environment by equipment for use outdoors.</p> <p>The Committee takes note of this information. It notes that even though, according to another source, Romania has ratified few relevant ILO Conventions, most of the Community acquis on specific risk coverage has been transposed to domestic law. The Committee considers therefore that the current legislation and regulations meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the General Introduction to Conclusions XIV-2 (pp. 37-38) be specifically covered, in line with the level set by international reference standards.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, France</p> <p>The Committee takes note of this information. It notes that the current legislation and regulations meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the general introduction to Conclusions XIV-2 (pp. 37-38) be specifically covered, in line with the level set by international reference standards. It takes note of the current plans following the adoption of Council Directive 2010/32/EU of 10 May 2010 implementing the Framework Agreement on prevention from sharp injuries in the hospital and healthcare sector. It asks for information in the next report on the measures taken to transpose Directive 2000/54/EC on the protection of workers from risks related to exposure to biological agents at work, and Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields), as amended by Directive 2008/46/EC of the European Parliament and of the Council of 23 April 2008.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on</p>
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		<p>Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work</p>	<p>national reports - Conclusions XIX-2 (2009), Greece</p> <p>The Committee asks to be kept informed about the future harmonisation of domestic law with [the] Directive 2004/40/EC, (...) regarding the risks arising from electromagnetic fields (...).</p> <p>-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, France</p> <p>In order to ascertain whether the legislation and regulations in force afford a level of protection against asbestos at least equivalent to that set by international reference standards, the Committee asks for information in the next report on the measures adopted to transpose Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work.</p> <p>-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XIX-2 (2009), Spain</p> <p>The Committee reiterates its question as to whether exposure limits regarding benzene are conform to those contained in Annex III of Directive 2004/37/EC of the European Parliament and the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (codified version of the Carcinogens Directive 90/394/EEC), (...).Due to the repeated absence of information, the Committee reiterates its conclusion of non-conformity on this point.</p> <p>-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVIII-2 (2007), Spain</p> <p>Protection of workers against benzene. The report does not provide the information requested on the limit values for benzene. The Committee asks once again if exposure limits conform to those contained in Annex III of Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (codified version of the Carcinogens Directive 90/394/EEC).</p>
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		<p>Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration)</p>	<p>of the risks listed in the general introduction to Conclusions XIV-2 be specifically covered, in line with the level set by international reference standards.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XIX-2 (2009), Greece</p> <p>During the reference period, a number of regulations were adopted, some of which transposed a number of relevant European Union (EU) Directives: minimum health and safety requirements regarding the exposure of workers to the risks arising from natural agents (Directive 2003/10/EC on noise),</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVIII-2 (2007), Germany</p> <p>As regards regulations on the protection against noise and vibration, the Committee notes that the Government intends to transpose in a single Ordinance Directive 2003/10/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise), and Directive 2002/44/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration). The Committee asks to be kept informed on developments as regards the situation.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Ukraine</p> <p>The Committee takes note of this information. It notes that efforts have been undertaken to incorporate international standards of exposure to occupational risks into specific legislation and regulations. It nevertheless notes that, during the reference period, only few relevant ILO Conventions were in force, and much of the Community acquis, stemming [in particular] from Directive 2002/44/CE of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration) (...) was not reflected in the current national law. The Committee therefore considers that the legislation and regulations in force do not meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the general introduction to Conclusions XIV-2 be</p>
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specifically covered, in line with the level set by international reference standards

-COMPATIBILITY-

Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XIX-2 (2009), Greece

During the reference period, a number of regulations were adopted, some of which transposed a number of relevant European Union (EU) Directives: minimum health and safety requirements regarding the exposure of workers to the risks arising from natural agents (Directive 2002/44/EC on vibration).

-COMPATIBILITY-

Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2007, Norway

Protection of workers against risks arising from physical agents (vibration). The report indicates that Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration)⁴ has been transposed into national law by the adoption of the Regulations on the Protection against Mechanical Vibrations, which came into force on 6 July 2005. The Committee considers that the transposition of this Directive brings the situation into conformity with Article 3§2 of the Revised Charter on this point.

-COMPATIBILITY-

Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2005, Norway

In its previous conclusion, the Committee noted that although the Working Environment Act (WEA) No. 4 of 4 February 1977 required employers to avoid or reduce vibrations to prevent harm to employees (Section 8.1 e), there were no more detailed provisions. The previous report said that the situation would change when Norway implemented Directive 2002/44/EC of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration)³. The Committee regarded this as a commitment by the Norwegian authorities to bring the situation into conformity with the Charter but no information has been provided on the subject.

-COMPATIBILITY-

		<p>Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities</p> <p>Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation</p> <p>Directive 2000/54/EC of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVI-2 (2004), Germany</p> <p>The Committee takes notes of the regulations on prevention of and protection against noise, vibration and biological agents in the workplace. However, it is not possible to determine from the information available whether these rules reflect such current international standards, as: (...), la Directive 2002/44/CE of the European Parliament and of the Council of 25 June 2002 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (vibration), (...).The Committee therefore asks for the next report to give more details on this subject.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XIX-2 (2009), Greece</p> <p>During the reference period, a number of regulations were adopted, some of which transposed a number of relevant European Union (EU) Directives: organisation of the working time of persons performing mobile road transport activities (Directive 2002/15/CE).</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Estonia</p> <p>The Committee takes note of this information. It asks that the next report provide information on the amendments to the Act of 16 June 1993 on employees' representatives introduced by the Act of 13 December 2006 which transposed Directive No. 2002/14/CE of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, France</p> <p>It asks for information in the next report on the measures taken to transpose Directive 2000/54/CE on the protection of workers from risks related to exposure to biological agents at work.</p>
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		<p>Directive 97/43/EURATOM of</p>	<p>Monitoring procedure of the implementation of the Charter based on</p>

		<p>the Council of 30 June 1997 on health protection of individuals against the dangers of ionizing radiation in relation to medical exposure, and repealing Directive 84/466/Euratom</p> <p>Directive 97/23/EC of the European Parliament and of the Council of 29 May 1997 on the approximation of the laws of the Member States concerning pressure equipment</p>	<p>national reports - Conclusions 2013, Hungary</p> <p>The Committee notes from another source the introduction into domestic legislation of Council Directive 97/43/Euratom of 30 June 1997 on health protection of individuals against the dangers of ionizing radiation in relation to medical exposure, and repealing of Directive 84/466/Euratom.</p> <p>The Committee considers that as far as the protection against hazardous substances and agents is concerned the situation is in conformity with Article 3§2.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVI-2 (2004), Belgium</p> <p>Protection of workers against ionising radiation. The Royal Order laying down general rules for the protection of the public, workers and the environment against the dangers of ionising radiation was adopted during the reference period. The new legislation incorporates into domestic law Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation and Council Directive 97/43/Euratom of 30 June 1997 on health protection of individuals against the dangers of ionizing radiation in relation to medical exposure². The Committee recalls that for the situation to be in conformity with Article 3§1, states must ensure effective protection against the risks associated with ionizing radiation and must accordingly adapt their legislation to take account of the recommendations of the International Commission on Radiological Protection (ICRP). Considering that these recommendations are adequately reflected in the maximum levels set out in abovementioned Directive 96/29/Euratom, the Committee finds that Belgium complies with Article 3§1 on this point.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Ukraine</p> <p>The Committee takes note of this information. It notes that efforts have been undertaken to incorporate international standards of exposure to occupational risks into specific legislation and regulations. It nevertheless notes that, during the reference period, only few relevant ILO Conventions were in force, and much of the Community acquis, stemming from (...) Directive 97/23/EC of the European Parliament and of the Council of 29</p>
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		<p>Directive 96/82/EC of the Council, of 9 December 1996 on the control of major-accident hazards involving dangerous substances</p>	<p>May 1997 on the approximation of laws of the Member States concerning pressure equipment, (...) was not reflected in the current national law. The Committee therefore considers that the legislation and regulations in force do not meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the general introduction to Conclusions XIV-2 be specifically covered, in line with the level set by international reference standards.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Lithuania</p> <p>The transposition of Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances was completed during the reference period by several laws, ministerial orders and resolutions, (...).</p> <p>The Committee takes note of this information. It notes that, according to another source, the number of relevant ILO Conventions ratified by Lithuania is particularly low, whereas Community occupational health and safety law has been extensively incorporated into domestic law. The Committee considers therefore that the current legislation and regulations meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the General Introduction to Conclusions XIV-2 (pp. 37-38) be specifically covered, in line with the level set by international reference standards. It nevertheless points out that the report must provide full, up-to-date information on changes in the legislation and regulations during the reference period.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
		<p>Directive 96/58/EC of the European Parliament and the Council of 3 September 1996 amending Directive 89/686/EEC on the approximation of the laws of the Member States relating to personal protective equipment</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Ukraine</p> <p>The Committee takes note of this information. It notes that efforts have been undertaken to incorporate international standards of exposure to occupational risks into specific legislation and regulations. It nevertheless notes that, during the reference period, only few relevant ILO Conventions were in force, and much of the Community acquis, stemming from (...) Directive 96/58/EC of the European Parliament and the Council of 3 September 1996 ; (...)was not reflected in the current national law. The Committee therefore considers that the legislation and regulations in force do not meet the general obligation under Article 3§2 of the Charter, which requires that most of the risks listed in the general introduction to</p>

		<p>Directive 96/29/Euratom of the Council of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation</p>	<p>Conclusions XIV-2 be specifically covered, in line with the level set by international reference standards.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Bulgaria</p> <p>The Committee previously considered that the situation complied with Council Directive 96/29/EURATOM of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation, and took account of the exposure levels prescribed by Recommendation (1990) of the International Commission on Protection against Radiation (ICRP).</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2009, Bulgaria</p> <p>The Committee previously considered the situation was in conformity on the ground that domestic regulations have been brought in line with Council Directive 96/29/Euratom⁴ of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation, and maximum dose limits of ionising radiation take into account the recommendations adopted in 1990 by the International Commission on Radiological Protection (ICRP).</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2007, Italy</p> <p>Protection against ionising radiation. Council Directive 96/29/Euratom of 3 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation has been transposed into domestic law by legislative decree No. 241/2000. Maximum doses of exposure in the workplace conform with those in the aforesaid directive and those recommended by the International Commission on Radiological Protection. The Committee considers that the situation is in conformity with the Charter on this point.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on</p>
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		<p>Directive 94/9/EC of the European Parliament and the Council of 23 March 1994 on the approximation of the laws of the Member States concerning equipment and protective systems intended for use in potentially explosive</p>	<p>national reports - Conclusions XVII-2 (2005), Hungary</p> <p>The Committee again points out that, in order to assess compliance with Article 3§1 of the Charter, it needs to know whether maximum permissible doses have been set in conformity with the recommendations adopted in 1990 by the International Commission on Radiological Protection (ICRP). The Committee recalls that the incorporation into domestic law of the Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation is sufficient to comply with the Charter in this respect.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVI-2 (2004), Belgium</p> <p>Protection of workers against ionising radiation. The Royal Order laying down general rules for the protection of the public, workers and the environment against the dangers of ionising radiation was adopted during the reference period. The new legislation incorporates into domestic law Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionizing radiation¹ and Council Directive 97/43/Euratom of 30 June 1997 on health protection of individuals against the dangers of ionizing radiation in relation to medical exposure². The Committee recalls that for the situation to be in conformity with Article 3§1, states must ensure effective protection against the risks associated with ionizing radiation and must accordingly adapt their legislation to take account of the recommendations of the International Commission on Radiological Protection (ICRP). Considering that these recommendations are adequately reflected in the maximum levels set out in abovementioned Directive 96/29/Euratom, the Committee finds that Belgium complies with Article 3§1 on this point.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Ukraine</p> <p>The report indicates that Cabinet of Ministers Resolution No. 898 of 8 October 2008 on the Technical regulation to certify equipment and protective systems for use in potentially explosive atmospheres takes account of Directive 94/9/EC of the European Parliament and the Council of 23 March 1994 on equipment and protective systems intended for use in</p>
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		<p>atmospheres</p> <p>Directive 92/104/EEC of the Council of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries</p> <p>Directive 92/91/EEC of the Council of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling</p> <p>Directive 92/58/EEC of the Council, of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work</p>	<p>potentially explosive atmospheres.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Serbia</p> <p>The Committee takes note of this information. It notes that efforts have been undertaken to incorporate international standards on exposure to occupational risks into specific national laws and regulations. In order to determine whether the majority of the risks listed in Conclusions XIV-2 (pp. 36-42) are covered and the level set by international reference standards reached, it asks whether Serbia has undertaken to incorporate more of the Community acquis, such as Council Directive 92/104/EEC of 3 December 1992 on the minimum requirements for improving the safety and health protection of workers in surface and underground mineral-extracting industries.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Serbia</p> <p>The Committee takes note of this information. It notes that efforts have been undertaken to incorporate international standards on exposure to occupational risks into specific national laws and regulations. In order to determine whether the majority of the risks listed in Conclusions XIV-2 (pp. 36-42) are covered and the level set by international reference standards reached, it asks whether Serbia has undertaken to incorporate more of the Community acquis, such as Directive 92/91/CEE of 3 November 1992 concerning the minimum requirements for improving the safety and health protection of workers in the mineral-extracting industries through drilling.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Bulgaria</p> <p>According to another source, most of the Community acquis on protective equipment, protection from machines and the use of display screen equipment has been transposed. According to the same source, during the reference period, transposition of Directive 92/58/CEE of 24 June 1992 on the minimum requirements for the provision of safety and/or health signs at work was supplemented by Ministry of Labour and Social Policy Ordinance No. RD-07-08 of 20 December 2008 on minimal requirements for</p>
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		<p>Directive 92/57/EEC of the Council, of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile constructions sites</p>	<p>occupational safety and/or health signs, which sets obligations on fire equipment, upkeep of equipment and signs.</p> <p>In light of this information, the Committee considers that levels of prevention and protection in relation to the establishment, alteration and upkeep of workstations comply with Article 3§2 of the Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Italy</p> <p>The Committee also asks for information on the measures taken to remedy the failing found by the Court of Justice of the European Communities in the transposition into domestic law of Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Austria</p> <p>The Committee previously concluded (Conclusions XVI-2, XVIII-2 and XIX-2) that the situation in Austria was not in conformity with Article 3§1 of the 1961 Charter on the grounds that self-employed workers are not sufficiently covered by occupational health and safety regulations.</p> <p>The report reiterates that, under the Industrial Code (Gewerbeordnung), approval of industrial or craft production sites is subject to the adoption of technical measures to preserve the owner's safety and health, including, where appropriate, measures to protect safety and health at work. The report states that Act No. 66/2010, which came into force on 19 August 2010, extended the Code's scope to construction sites in order to transpose Council Directive 92/57/EEC of 24 June 1992 on the implementation of minimum safety and health requirements at temporary or mobile construction sites. The report also reiterates that social partners and social insurance funds organise information campaigns and preventive actions on health and safety at work aimed at self-employed workers.</p> <p>The Committee notes that, although the protection of self-employed workers by occupational safety and health regulations may be better in industrial or craft production of on construction sites, it still does not cover all workers, all workplaces and all sectors, as required. It notes that the situation has barely improved in relation to the previous periods and concludes, therefore, that</p>
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		<p>Directive 91/383/CEE of the Council, of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship (91/383/EEC)</p>	<p>the situation is still not in conformity with Article 3§2 of the Revised Charter.</p> <p style="text-align: center;">-INCOMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2009, Romania</p> <p>The report specifies that the legislative framework includes the following acts: Governmental Decision No. 601 of 13 June 2007 which completes the transposition [namely of] directive 92/57/EEC (on construction sites). (...) On the basis of the information provided in the report, the Committee considers that the general obligation that rules on occupational health and safety must specifically cover a large majority of the risks listed in the general introduction to Conclusions XIV-2 has been met.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XX-2 (2013), Greece</p> <p>The Committee asks that the next report provide updated information with respect to the transposition of: (...) c) de la Directiva 2007/30/EC amending Council Directive 89/391/EEC, its individual Directives and Council Directives 83/477/EEC, 91/383/EEC, 92/29/EEC and 94/33/EC with a view to simplifying and rationalising the reports on practical implementation (Text with EEA relevance).</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2009, Romania</p> <p>The report specifies that the legislative framework includes the following acts: (...) Governmental Decision No. 557 of 6 June 2007 on the completion of measures designed to promote the improvement of safety and health at work for employees employed under a fixed-term contract and temporary workers, transposing Directive 91/383/EEC. The report gives a list of other Governmental decisions which transpose relevant Directives, including on exposure to electromagnetic fields, carcinogen or mutagen agents, potential risks of explosive atmosphere, vibration, noise and asbestos as well as concerning the safety and health of workers in the mining and quarrying sectors, and for temporary or mobile construction sites. On the basis of the information provided in the report, the Committee considers that the general obligation that rules on occupational health and safety must specifically cover a large majority of the risks listed in the general introduction to</p>
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		<p>Directive 90/270/EEC of the Council, of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment</p> <p>Directive 90/269/EEC of the Council, of 29 May 1990 on the minimum health and safety requirements for the</p>	<p>Conclusions XIV-2 has been met.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVI-2 (2004), Iceland</p> <p>In reply to the general question on measures to take specific account of the occupational health and safety needs of persons on fixed term and temporary contracts, the report states that Act No. 46/1980 applies to all employees irrespective of their length of contract. In addition, Regulation No. 433/1997, which incorporates into domestic law Council Directive 91/383/EEC of 25 June 1991 supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed duration employment relationship or a temporary employment relationship, grants these workers the same level of protection as other employees.</p> <p>The Committee points out that to comply with Article 3§1 of the Charter, states must take the necessary measures to equip nonpermanent workers (temporary agency workers and fixed-term workers) with information, training and medical surveillance adapted to their employment status, in order to avoid any discrimination in respect of health and safety in the workplace. It indicates that these measures must ensure that such workers are afforded adequate protection, including against risks resulting from a succession of accumulated periods spent working for a variety of employers, exposed to dangerous substances, and, if necessary, must contain provisions prohibiting the use of non-permanent workers for some particularly dangerous tasks. The Committee asks the Icelandic authorities to indicate how the regulations apply the Charter in this regard.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Ukraine</p> <p>Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment was incorporated.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Cyprus</p> <p>In its last conclusion (2009) the Committee found that the legal framework covered a large majority of the risks listed in the General Introduction to</p>
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		<p>manual handling of loads where there is a risk particularly of back injury to workers</p> <p>Directive 89/686/EEC of the Council, of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment</p> <p>Directive 89/656/EEC of the Council, of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace</p>	<p>Conclusions XIV-2 and therefore concluded that the general obligation under Article 3§2 of the Charter was met.</p> <p>The provisions of (...) (b) Directive 90/269/EEC of 29 May 1990 on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (the fourth directive in particular in the sense of the Article 16 paragraph 1 Directive 89/391/EEC) is being implemented in the domestic legal system.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Bulgaria</p> <p>According to another source, most of the Community acquis on protective equipment, protection from machines and the use of display screen equipment has been transposed. According to the same source, during the reference period, (...)Council Directive 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment supplemented by Ministry of Labour and Social Policy Ordinance of April 2008 amending and supplementing Ordinance No. 7/1999 of 23 September 1999 on minimal requirements on occupational health and safety on using working equipment</p> <p>In light of this information, the Committee considers that levels of prevention and protection in relation to the establishment, alteration and upkeep of workstations comply with Article 3§2 of the Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Bulgaria</p> <p>Most of the Community acquis on protective equipment, protection from machines and the use of display screen equipment has been transposed. According to the same source, during the reference period, (...)Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace [has been particularly transposed].</p> <p>In light of this information, the Committee considers that levels of prevention and protection in relation to the establishment, alteration and upkeep of workstations comply with Article 3§2 of the Charter.</p>
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		<p>Directive 89/391/EEC of the Council, of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work</p>	

			<p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2007, Romania</p> <p>The Committee notes that the main piece of legislation on occupational health and safety, that is, the Labour Protection Act No. 90/1996 was repealed and replaced in 2006 – outside the reference period – by the Labour Health and Security Law No. 319/2006. According to the report, the new law transposes the European Union framework directive on occupational health and safety¹. It also states that 19 Government decisions transposing all specific European Community directives in the field of health and safety at work were issued pursuant to the new law. On the basis of this information, the Committee considers that the general obligation that rules on occupational health and safety must specifically cover a large majority of the risks listed in the General Introduction to Conclusions XIV-2 (pp. 39-40) has still not been met.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVII-2 (2005), Czech Republic</p> <p>However, according to the Commission, adjustments were still required for the transposition of Framework Directive 89/391/EC and Community legislation still had to be transposed in the areas of workplace requirements, work equipment, temporary or mobile construction sites, workers potentially at risk from explosive atmospheres, medical treatment on board vessels and work at a height. The deadline set for transposition was the date of the Czech Republic's accession to the European Union in May 2004. The Committee notes from the report that a number of measures were adopted in this area during the reference period (an amendment to Public Health Act No. 258/2000, Government Decree No. 178/2001, laws and regulations on construction work, technical equipment, etc.).</p> <p>The Committee emphasises that to comply with Article 3§1 of the Charter, health and safety regulations must specifically cover most of the risks listed in the general introduction to Conclusions XIV-2 (pp.37-38). The fact that most of the Community legislation in this area has been transposed into Czech law shows that this general obligation has been met.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on</p>
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		<p>Directive 87/217/EEC of the Council, of 19 March 1987 on the prevention and reduction of environmental pollution by asbestos</p>	<p>national reports - Conclusions XVI-2 (2004), Germany</p> <p>The Committee examined the general scope of the regulations in Conclusions XIV-2 (pp. 299 and 300). It notes that the Court of Justice of the European Communities has ruled that Germany did not correctly transpose Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work, on the grounds that German legislation failed to ensure that the obligation to be in possession of an assessment in documentary form of the risks to safety and health at work applied to employers of ten or fewer workers in all circumstances. The Committee asks what steps have been taken to implement this decision.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVI-2 (2004), Iceland</p> <p>Protection of workers against asbestos. The report states that Regulation No. 74/1983, referred to in the previous conclusion, was replaced during the reference period by Act No. 870/2000, which incorporated into domestic law (...) Directive 87/217/EEC of 19 March 1987 on the prevention and reduction of environmental pollution by asbestos³. As a general principle, the importation, production, sale, use and handling of asbestos is prohibited under the 2000 Act and Regulation No. 379/1996. However, the Occupational Safety and Health Administration is authorised to grant exemptions from the general rule in the case of maintenance or repair of machines or other items of equipment where this is necessary for them to retain their value. The handling of asbestos is also permitted in connection with the maintenance, repair or demolition of buildings. Exemptions are only granted when no other substance can reasonably be used and regular risk assessments must be carried out. On the basis of this information and that in the previous report, the Committee concludes that the situation in Iceland in this regard is in conformity with Article 3§1 of the Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>Article 3§3 to provide for the enforcement of such regulations by measures of supervision;</p>		<p>Regulation (EU) 349/2011 of 11 April 2011, of the Commission, implementing Regulation (EC) No 1338/2008 of the European Parliament and of the Council on Community statistics on public health and health and</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Bulgaria</p> <p>In reply to the Committee's request, the report states that the set-up, maintenance and development of the database for accidents at work is carried out under the rules of the Accidents at Work Statistical System (AWSS), which was developed on the basis of European Statistics of Accidents at Work (ESAW), Phase 3 Methodology and which implements</p>

		<p>safety at work, as regards statistics on accidents at work</p> <p>Regulation (EC) 1338/2008 of the European Parliament and of the Council of 16 December 2008 on Community statistics on public health and health and safety at work</p>	<p>Regulation (EC) No. 1338/2008 of the European Parliament and of the Council on Community statistics on public health and health and safety at work, as regards statistics on accidents at work. Data submitted by the National Social Security Institute (NSSI) to EUROSTAT complies with Commission Regulation (EU) No. 349/2011 of 11 April 2011 implementing Regulation (EC) No. 1338/2008.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Bulgaria</p> <p>In reply to the Committee's request, the report states that the set-up, maintenance and development of the database for accidents at work is carried out under the rules of the Accidents at Work Statistical System (AWSS), which was developed on the basis of European Statistics of Accidents at Work (ESAW), Phase 3 Methodology and which implements Regulation (EC) No. 1338/2008 of the European Parliament and of the Council on Community statistics on public health and health and safety at work, as regards statistics on accidents at work. Data submitted by the National Social Security Institute (NSSI) to EUROSTAT complies with Commission Regulation (EU) No. 349/2011 of 11 April 2011 implementing Regulation (EC) No. 1338/2008.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>Article 3§4 to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions.</p>		<p>Directive 89/391/EEC of the Council, of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2009, France</p> <p>In its previous Conclusions the Committee took note of the reform of the occupational health services in accordance with a Decree of 28 July 2004 transposing into French law European Directive 89/391/CEE which foresees a multidisciplinary approach to occupational health. The Committee concluded the French situation was in conformity with Article 3§4.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVI-2 (2004), Austria</p> <p>The Committee asked for further information on consultation at company level. The report describes the arrangements whereby works councils take part in decision making on the working environment, in accordance with the Collective Labour Relations Act (ArbVG), as amended following the transposition into domestic law of Council Directive 89/391/EEC of 12 June</p>

			<p>1989 on the introduction of measures to encourage improvements in the safety and health of workers at work. The Committee notes in particular that under sections 90 to 92 of the ArbVG, works councils are consulted on measures to improve health and safety at work, in accordance with Article 3§3 of the Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>« Article 4 : The right to a fair remuneration</p> <p>With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:</p> <p>§1 to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living;</p>	<p>Article 31 §1 CFR</p> <p>«1. Every worker has the right to working conditions which respect his or her health, safety and dignity. »</p>		
<p>Article 4§2 to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;</p>		<p>Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working</p>	<p>Confédération française de l'Encadrement CFE-CGC v. France, Complaint No.56/2009, Decision on the merits on 23 June 2010</p> <p>28. The main reference in European Union Law remains to date Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time (Official Journal of the European Union L299-9, 18 November 2003).</p> <p>29. The Government of Finland submitted observations in which it draws the attention of the Committee to Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time. In respect of another complaint examined in parallel by the Committee and which also deals with the annual working time system (CGT v. France, complaint No. 55/2009), the French Government considers that the national situation is in compliance with the aforementioned Directive and, as a result, that it is in conformity with the Charter.</p> <p>30. In reply to this argument, the Committee reiterates that the fact that</p>

the provisions at stake are based on a European Union directive does not remove them from the ambit of the Charter (CFE-CGC v. France, complaint No. 16/2003, decision on the merits of 12 October 2004, §30; see also, mutatis mutandis, Cantoni v. France, judgment of the European Court of Human Rights of 15 November 1996, §30).

31. In this regard, the Committee has already stated that it is neither competent to assess the conformity of national situations with a directive of the European Union nor to assess compliance of a directive with the European Social Charter. However, when member states of the European Union agree on binding measures in the form of directives which relate to matters within the remit of the European Social Charter, they should – both when preparing the text in question and when transposing it into national law – take full account of the commitments they have taken upon ratifying the European Social Charter. It is ultimately for the Committee to assess compliance of a national situation with the Charter, including when a European Union directive has been transposed into domestic law

37. In the instant case, the Committee must first indicate how it will assess conformity with the European Social Charter of the situation in states bound by Directive 2003/88/EC of the European Parliament and the Council of 4 November 2003 concerning certain aspects of the organisation of working time.

38. The Committee notes from the outset that, whilst the European Social Charter has been ratified by all member states of the European Union and the Treaty on the European Union explicitly refers to it on several occasions, the preamble of this Directive does not make any reference to it.

39. Notwithstanding this oversight, the Committee considers that the concerns underlying the text of this Directive undoubtedly show the authors' intention to comply with the rights enshrined in the Charter. It believes that the practical arrangements agreed between member states of the European Union, if properly applied, do not prevent a concrete and effective exercise of the rights contained in particular in Articles 2§1 and 4§2 of the Revised Charter.

40. However, the Committee notes that the Directive at stake provides for many exceptions and exemptions which may adversely affect respect for the Charter by States in practice. It thus considers that depending on how Member States of the European Union make use of those exemptions and exceptions or combine them, the situation may be compatible or incompatible with the Charter

-INCOMPATIBILITY-

			<p>Confédération Générale du Travail (CGT) v. France, Complaint No. 55/2009, Decision on the merits on 23 June 2010</p> <p>See §§ 28 to 31 and §§ 37 to 40 of the Complaint No. 56/2009 mentioned above.</p> <p style="text-align: center;">-INCOMPATIBILITY-</p>
<p>Article 4§3 to recognise the right of men and women workers to equal pay for work of equal value;</p>	<p>Article 157 TFUE (ex-article 141 TEC)</p> <p>« 1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied. »</p>		
<p>Article 4§4 to recognise the right of all workers to a reasonable period of notice for termination of employment;</p> <p>Article 4§5 to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.</p> <p>The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing</p>			

<p>machinery, or by other means appropriate to national conditions.</p>			
<p>« Article 5: The right to organise With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations. »</p>	<p>Article 12 §1 CFR « 1. Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and to join trade unions for the protection of his or her interests. »</p>	<p>ECJ : Commission of the European Communities v Republic of Austria, Case C-465/01, of 16 September 2004</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVIII-1 (2006), Austria</p> <p>In its last conclusion (<i>ibid</i>), the Committee found that Austria was not in conformity with Article 5 of the Charter because foreigners could not stand for election to works councils unless they had the nationality of a member state of the European Union or a state party to the European Economic Area Agreement.</p> <p>The report indicates that following a judgment of the Court of Justice of the European Communities of 16 September 2004, talks were held in Austria on this issue. In its judgment of 16 September 2004 (case C-465/01, Commission of the European Communities v. Republic of Austria, E.C.R. 2004, I-8291), the Court ruled that by refusing to allow nationals of countries with which the European Community had reached an agreement to stand for election to works councils, Austria was in breach of its obligations under such agreements.</p> <p style="text-align: center;">-COMPATIBILITY-</p>

<p>« Article 6 : The right to bargain collectively</p> <p>With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:</p>	<p>Article 28 CFR</p> <p>« Workers and employers, or their respective organisations, have, in accordance with Union law and national laws and practices, the right to negotiate and conclude collective agreements at the appropriate levels and, in cases of conflicts of interest, to take collective action to defend their interests, including strike action. »</p>		
<p>§1 to promote joint consultation between workers and employers;</p>		<p>Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XIX-3 (2010), Poland</p> <p>It recalls that in its previous conclusions (Conclusions XV-1, XVI-I, XVII-1 and XVIII-1), it held the mechanisms for joint consultation in Poland to be in conformity with Article 6§1 of the Charter. In its last conclusion, it asked for further information on:</p> <ul style="list-style-type: none"> the introduction of legislation which was under discussion to implement the Directive of the European Parliament and of the Council 2002/14/EC establishing a general framework for informing and consulting employees; <p>In reply, the report indicates that legislation on information and consultation of workers was indeed enacted on 7 April 2006 to implement the above mentioned Directive.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>§2 to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers'</p>			

<p>organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;</p> <p>§3 to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes; and recognise:</p> <p>§4 the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.</p>			
<p>« Article 7 : The right of children and young persons to protection</p> <p>With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:</p>	<p>Article 32 CFR « The employment of children is prohibited. The minimum age of admission to employment may not be lower than the minimum school-leaving age, without prejudice to such rules as may be more favourable to young people and except for limited derogations.</p>		

	<p>Young people admitted to work must have working conditions appropriate to their age and be protected against economic exploitation and any work likely to harm their safety, health or physical, mental, moral or social development or to interfere with their education."</p>		
<p>Article 7§1 to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education;</p>		<p>Directive 94/33/EC of the Council, of 22 June 1994 on the protection of young people at work</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVII-2 (2005), Greece</p> <p>The report provides statistical data collected by the National Statistical Service on the number of lawfully employed children in Greece in 2001. Out of the 4,615,470 economically active population in Greece, 5,341 were children aged between 10 and 14 years of which 142 were employed mainly in small processing industries and the construction sector whereas 5,199 were unemployed or searching for work. It appears to the Committee that very young children are employed in work which cannot be considered as light. It asks for the Government's comments on this. It points out in this respect that Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work¹ fixes 13 years as the minimum age for the performance of light work other than work related to cultural activities and wishes the next report to specify how it is ensured that this requirement is observed in practice.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2004, Slovenia</p> <p>The Committee notes that the Slovenian law relating to the employment of children was amended during the reference period (in order to transpose Council Directive 94/33/EC of 22 June 1994 on the Protection of Young People at Work¹). Previously the employment of children under the age of 15 was prohibited without exception, either for light work or even apprentices. Now the Employment Act of 24 April 2002 permits children aged 13 years or more to perform light work for 30 days in a calendar year during school holidays. Categories of light work are to be defined by implementing regulations. An exception to the rule is also permitted for children engaged in cultural, artistic, sports or advertising activities. In both cases prior approval must be obtained from the Labour Inspectorate. The</p>

			<p>Committee refers to its questions on this issue under Article 7§3. The amendments to the legislation are in principle in keeping with the requirements of the Revised Charter; however the Committee decides to defer its conclusion pending information on the regulations defining light work.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>Article 7§2 to provide that the minimum age of admission to employment shall be 18 years with respect to prescribed occupations regarded as dangerous or unhealthy;</p>			
<p>Article 7§3 to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education;</p> <p>Article 7§4 to provide that the working hours of persons under 18 years of age shall be limited in accordance with the needs of their development, and particularly with their need for vocational training;</p>		<p>Directive 94/33/EC of the Council, of 22 June 1994 on the protection of young people at work</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2011, Armenia</p> <p>The report states that Article 140 of the Labour Code establishes a shorter working time for young workers at the age of 14 to 16, up to 24 hours per week. The duration of the daily uninterrupted rest for employees at the age of 14 to 16 may not be less than 14 hours, which means that they can work up to 10 hours per day. The Committee makes reference as a minimum framework to Council Directive 94/33/EC of 22 June 1994 on protection of young people at work which establishes that working time of children must be limited in 2 hours on a school day and 12 hours a week for work performed in term-time outside the hours fixed for school attendance, provided that this is not prohibited by national legislation and/or practice and that in no circumstances may the daily working time exceed 7 hours.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>Article 7§5 to recognise the right of young workers and</p>			

<p>apprentices to a fair wage or other appropriate allowances;</p> <p>Article 7§6 to provide that the time spent by young persons in vocational training during the normal working hours with the consent of the employer shall be treated as forming part of the working day;</p>			
<p>Article 7§7 to provide that employed persons of under 18 years of age shall be entitled to a minimum of four weeks' annual holiday with pay;</p>	<p>Article 158 TFUE (ex-article 142 TEC) « Member States shall endeavour to maintain the existing equivalence between paid holiday schemes. »</p>		
<p>Article 7§8 to provide that persons under 18 years of age shall not be employed in night work with the exception of certain occupations provided for by national laws or regulations;</p> <p>Article 7§9 to provide that persons under 18 years of age employed in occupations prescribed by national laws or</p>		<p>Directive 94/33/EC of the Council, of 22 June 1994 on the protection of young people at work</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVII-2 (2005), Poland</p> <p>The legislation, which the Committee has previously found to be in conformity with the Charter, has been modified following the incorporation into Polish law of Directive 94/33/EC1. Pursuant to a 2001 amendment to the Labour Code, which has changed the previous definition of night work, workers under 18 years of age may not work from 10 pm to 6 am, while young workers under 16 years of age or who have not completed high school, may not work between 8 pm and 6 am. The Committee considers that this amendment is in conformity with the Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p>

<p>regulations shall be subject to regular medical control;</p>			
<p>Article 7§10 to ensure special protection against physical and moral dangers to which children and young persons are exposed, and particularly against those resulting directly or indirectly from their work. »</p>	<p>Article 32 CFR (above)</p> <p>Article 5 §1 CFR «1. No one shall be held in slavery or servitude.. »</p> <p>Article 5 §2 CFR «2. No one shall be required to perform forced or compulsory labour»</p>		
<p>« Article 8 : The right of employed women to protection of maternity</p> <p>With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake:</p> <p>§1 to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least fourteen weeks;</p> <p>§2 to consider it as unlawful for an</p>	<p>Article 151§1 TFUE (ex-article 136 TEC)</p> <p>« The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion. »</p>		

employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period;

§3 to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;

§4 to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants;

§5 to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining and all other work which is unsuitable by reason of its dangerous, unhealthy or arduous nature and to take appropriate

Article 33 CFR
« Family and professional life

1. The family shall enjoy legal, economic and social protection.

2. To reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child. »

<p>measures to protect the employment rights of these women..</p>			
<p>« Article 9 : The right to vocational guidance</p> <p>With a view to ensuring the effective exercise of the right to vocational guidance, the Parties undertake to provide or promote, as necessary, a service which will assist all persons, including the handicapped, to solve problems related to occupational choice and progress, with due regard to the individual's characteristics and their relation to occupational opportunity: this assistance should be available free of charge, both to young persons, including schoolchildren, and to adults. »</p>	<p>Article 29 CFR « Everyone has the right of access to a free placement service. »</p>		
<p>« Article 10 : The right to vocational training</p> <p>With a view to ensuring the effective exercise of</p>	<p>Article 14 §1 CFR « 1. Everyone has the right to education and to have access to vocational and continuing training. »</p>		

the right to vocational training, the Parties undertake:

§1 to provide or promote, as necessary, the technical and vocational training of all persons, including the handicapped, in consultation with employers' and workers' organisations, and to grant facilities for access to higher technical and university education, based solely on individual aptitude;

§2 to provide or promote a system of apprenticeship and other systematic arrangements for training young boys and girls in their various employments;

§3 to provide or promote, as necessary:

a adequate and readily available training facilities for adult workers;

b special facilities for the retraining of adult

workers needed as a result of technological development or new trends in employment;

§4 to provide or promote, as necessary, special measures for the retraining and reintegration of the long-term unemployed;

§5 to encourage the full utilisation of the facilities provided by appropriate measures such as:

a reducing or abolishing any fees or charges;

b granting financial assistance in appropriate cases;

c including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;

d ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the

<p>accidents. »</p>	<p>human resources with a view to lasting high employment and the combating of exclusion. »</p> <p>Article 35 CFR « Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all the Union's policies and activities. »</p> <p>Article 37 CFR « A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development. »</p>	<p>ECJ : Commission of the European Communities v. Hellenic Republic, Case C-286/08, 10 September 2009</p>	<p>the Council of 15 January 2008 concerning integrated pollution prevention and control (Codified version) or, as appropriate, by reconsidering and, where necessary, by updating the conditions, that existing installations operate in accordance with the requirements of Articles 3, 7, 9, 10 and 13, Article 14(a) and (b) and Article 15(2) of that directive, not later than 30 October 2007, without prejudice to specific Community legislation, the Hellenic Republic has failed to fulfil its obligations under Article 5(1) of that directive”.</p> <p>141. As regards industrial emissions and pollution control, the Committee notes the inspections carried out from 2004 to 2012 by the competent authorities in the greater area of the Asopos River. However, it also notes that in 2010 the Court of Justice of the European Union declared that Greece has failed to fulfill its obligations under Directive 2008/1/EC concerning integrated pollution prevention and control, specifically referring to the requirements for the granting of permits for existing installations (see paragraph 27 above).</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>International Federation for Human Rights (FIDH) v. Greece, Complaint No. 72/2011, Decision on the merits of 23 January 2013</p> <p>28. In the judgment of 10 September 2009 - Commission of the European Communities v Hellenic Republic (Case C-286/08 / OJ C 223, 30.08.2008), the Court declared that: “By failing: - to draw up and adopt within a reasonable period a hazardous-waste management plan that accords with the requirements of the relevant Community legislation, and by failing to establish an integrated and adequate network of disposal installations for hazardous waste characterised by the most appropriate methods in order to ensure a high level of protection for the environment and public health, and, - to take all the necessary measures to ensure, as regards the management of hazardous waste, compliance with Articles 4 and 8 of Directive 2006/12/EC of the European Parliament and of the Council of 5 April 2006 on waste and Articles 3(1), 6 to 9, 13 and 14 of Council Directive 1999/31/EC of 26 April 1999 on the landfill of waste, the Hellenic Republic has failed to fulfil its obligations under, first, Articles 1(2) and 6 of Council Directive 91/689/EEC of 12 December 1991 on hazardous waste, read in conjunction with Articles 5(1) and (2) and 7(1) of Directive 2006/12, second, Article 1(2) of Directive 91/689, read in conjunction with the provisions of Articles 4 and 8 of Directive 2006/12, and, third, Articles 3(1), 6 to 9, 13 and 14 of Directive 1999/31”.</p> <p>140. As regards waste management, the Committee notes that, in 2009, the</p>
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		<p>Directive 2008/1/EC of the European Parliament and of the Council of 15 January 2008 concerning integrated pollution prevention and control (Codified version) (Text with EEA relevance)</p> <p>Regulation (EC) No. 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption</p> <p>Regulation (EC) No. 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin</p> <p>Regulation (EC) No. 852/2004 of the European parliament and of the council of 29 April 2004 on the hygiene of foodstuffs</p> <p>Directive 2003/87/CE du</p>	<p>Court of Justice of the European Union declared that Greece has failed to fulfill its obligations under different provisions of Council Directive 91/689/EEC on hazardous waste (read in conjunction with the provisions of other EU Directives) and Directive 1999/31/EC on the landfill of waste (see paragraph 28 above).</p> <p>-COMPATIBILITY-</p> <p>International Federation for Human Rights (FIDH) v. Greece, Complaint No. 72/2011, Decision on the merits of 23 January 2013</p> <p>141. As regards industrial emissions and pollution control, the Committee notes the inspections carried out from 2004 to 2012 by the competent authorities in the greater area of the Asopos River. However, it also notes that in 2010 the Court of Justice of the European Union declared that Greece has failed to fulfill its obligations under Directive 2008/1/EC concerning integrated pollution prevention and control, specifically referring to the requirements for the granting of permits for existing installations</p> <p>-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVII-2 (2005), Portugal</p> <p>Turning to the legal framework, with reference to the resolution adopted by the 53rd World Health Assembly in May 2000 on food safety, the Committee notes that since the publication in 2000 of the EU white paper on food safety, Community law has established standards in all the areas covered by the Committee. It therefore asks for information on all the measures taken in accordance with three regulations of the European Parliament and of the Council of 29 April 2004 - No 852/2004 on the hygiene of foodstuffs, No 853/2004 laying down specific hygiene rules for on the hygiene of foodstuffs and No 854/2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption - and with Council Directive 2002/99/EC of 16 December 2002 laying down the animal health rules governing the production, processing, distribution and introduction of products of animal origin for human consumption.</p> <p>-COMPATIBILITY-</p> <p>Marangopoulos Foundation for Human Rights (MFHR) v. Greece,</p>
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		<p>Parlement européen et du Conseil, du 13 octobre 2003 établissant un système d'échange de quotas d'émission de gaz à effet de serre dans la Communauté et modifiant la directive 96/61/CE du Conseil</p> <p>Directive 2003/33/EC of the European Parliament and of the Council of 26 May 2003 on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products (Text with EEA relevance)</p> <p>Directive 2002/99/EC of the Council, of 16 December 2002</p>	<p>Complaint No. 30/2005, Decision on the merits of 6 December 2006</p> <p>206. However, the National Allocation Plan for 2005-2007 (NAP1) drawn up by Greece in accordance with Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community provides for such emissions for the whole country and all sectors combined to rise by 39.2% to 2010, whereas the binding target for Greece, under the Kyoto Protocol, is an increase in these gases of just 25% in 2010, compared with the reference year (1990 for carbon dioxide, CO2).</p> <p>207. The Committee acknowledges that the main purpose of these forecasts, and of the other energy scenarios and emission reduction plans, is to determine what efforts are required to achieve the objectives and that, as the Government maintains, a certain lack of precision is inevitable in such exercises. Nevertheless, the Committee considers that the authority granted to Greece to increase its SO2 emissions under Directive 2001/81/EC on national emission ceilings for certain atmospheric pollutants, the purchase of emission rights to meet the forecasts in NAP1, which are much less demanding than the Kyoto Protocol target, and the power granted to the environment minister under Joint Ministerial Order 58751/2370 to authorise higher limit values for emissions in combustion plants using Greek lignite do not offer real evidence of Greece's commitment to improving the situation within a reasonable time or make such an outcome plausible.</p> <p style="text-align: center;">-INCOMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2005, Sweden</p> <p>Smoking – The report notes that Sweden has achieved the WHO target of a minimum of 80% of the population who do not smoke. Sweden has implemented Directive 2001/37/EC on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products¹. Moreover the legislation implementing Directive 2003/33/EC on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products² came into force on 1 January 2003. The Committee again asks to be informed of practical measures taken in this area.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVII-2 (2005), Portugal</p>
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		<p>atmospheric pollutants</p> <p>Directive 2001/37/EC of the European Parliament and of the Council of 5 June 2001 on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products</p> <p>Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the</p>	<p>for greenhouse gas emission allowance trading within the Community provides for such emissions for the whole country and all sectors combined to rise by 39.2% to 2010, whereas the binding target for Greece, under the Kyoto Protocol, is an increase in these gases of just 25% in 2010, compared with the reference year (1990 for carbon dioxide, CO₂).</p> <p>207. The Committee acknowledges that the main purpose of these forecasts, and of the other energy scenarios and emission reduction plans, is to determine what efforts are required to achieve the objectives and that, as the Government maintains, a certain lack of precision is inevitable in such exercises. Nevertheless, the Committee considers that the authority granted to Greece to increase its SO₂ emissions under Directive 2001/81/EC on national emission ceilings for certain atmospheric pollutants, the purchase of emission rights to meet the forecasts in NAP1, which are much less demanding than the Kyoto Protocol target, and the power granted to the environment minister under Joint Ministerial Order 58751/2370 to authorise higher limit values for emissions in combustion plants using Greek lignite do not offer real evidence of Greece's commitment to improving the situation within a reasonable time or make such an outcome plausible.</p> <p style="text-align: center;">-INCOMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2005, Sweden</p> <p>Smoking – The report notes that Sweden has achieved the WHO target of a minimum of 80% of the population who do not smoke. Sweden has implemented Directive 2001/37/EC on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco products. Moreover the legislation implementing Directive 2003/33/EC on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products came into force on 1 January 2003. The Committee again asks to be informed of practical measures taken in this area.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>International Federation for Human Rights (FIDH) v. Greece, Complaint No. 72/2011, Decision on the merits of 23 January 2013</p> <p>139. With this in mind, as regards water management, the Committee notes that, in 2012, the Court of Justice of the European Union declared</p>
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		<p>field of water policy</p> <p>Directive 1999/77/EC of the Commission of 26 July 1999 adapting to technical progress for the sixth time Annex I to Council Directive 76/769/EEC on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations (asbestos)</p> <p>Directive 1999/31/EC of 26 April 1999 on the landfill of waste</p> <p>Directive 96/61/EC of the Council, of 24 September 1996 concerning integrated</p>	<p>that Greece has failed to fulfill its obligations under a number of provisions of Directive 2000/60/EC on establishing a framework for Community action in the field of water policy.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVII-2 (2005), Portugal</p> <p>Asbestos – In addition to the information in the previous report, the Committee notes that Portugal has brought its legislation into line with Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations, as modified by directives 83/478, 85/610 91/659, which ban the use of chrysotile other than for certain categories of products, and then subject to adequate labelling. Resolution No. 24/2004, in application of Commission Directive 1999/77/EC of 26 July 1999, prohibits the use of asbestos in the construction of public buildings and requires the government to draw up an inventory of all public buildings containing asbestos.</p> <p>The Committee considers that these measures are consistent with Article 11§3 of the Charter. However, they are not sufficient. Compliance with this provision entails a policy that bans the use, production and sale of asbestos and products containing it. If the necessary information does not appear in the next report, Portugal will not have shown that it is complying with this provision of the Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>International Federation for Human Rights (FIDH) v. Greece, Complaint No. 72/2011, Decision on the merits of 23 January 2013</p> <p>140. As regards waste management, the Committee notes that, in 2009, the Court of Justice of the European Union declared that Greece has failed to fulfill its obligations under different provisions of Council Directive 91/689/EEC on hazardous waste (read in conjunction with the provisions of other EU Directives) and Directive 1999/31/EC on the landfill of waste</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, Decision on the merits of 6 December 2006</p>
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protection of the health of workers and the general public against the dangers arising from ionising radiation¹. The Committee also notes that special measures to protect people in the event of nuclear accidents are included in the Royal Decree of 17 October 2003 on an emergency nuclear and radiological plan for Belgium. The federal nuclear monitoring agency has also set new guidelines for dealing with radiological emergencies. The Committee considers that, in principle, the situation conforms with the principles it has laid down on the subject. It asks for confirmation that the legal regulations referred to lay down dose limits that satisfy the requirements of the International Commission on Radiological Protection (ICRP). It also wishes to be informed of the implementation of these measures.

-COMPATIBILITY-

Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVII-2 (2005), Finland

Ionising radiation – The Committee notes that the radiation and nuclear safety authority monitors radiation. It repeats its questions in the previous conclusion (Conclusions XV-2, p. 164) on measures to protect people living near nuclear power plants and whether Finnish regulations are in conformity with the requirements of the International Commission on Radiological Protection (ICRP) and Community Directive 96/29/Euratom on the protection of the health of workers and the general public against the dangers arising from ionising radiation¹. The Committee takes the view that should the information not appear in the next report; there would be nothing to show that the situation in Finland was in conformity with the Charter.

-COMPATIBILITY-

Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVII-2 (2005), Portugal

Ionising radiation – In 2002, Council Directive 96/29/EURATOM of 13 May 1996 on health and safety standards for the protection of employees and the general public against the potential dangers of ionising radiation was transposed by legislative decrees Nos. 165/2002 and 167/2002, which took account of the threshold values recommended by the International Commission on Radiological Protection (ICRP). The Committee asks what steps have been taken to give effect to Article 14 of the directive, under which "each Member State shall take reasonable steps to ensure that the contribution to the exposure of the population as a whole from practices is kept as low as reasonably achievable, economic and social factors being taken into account. The total of all such contributions shall be regularly

		<p>Directive 91/689/EEC of the Council, of 12 December 1991 on hazardous waste</p> <p>Directive 91/676/EEC du Conseil, du 12 décembre 1991, concernant la protection des eaux contre la pollution par les nitrates à partir de sources agricoles</p> <p>Directive 91/271/EEC of the Council, of 21 May 1991 concerning urban waste water treatment</p> <p>Directive 76/769/EEC of the Council, of 27 July 1976 on the approximation of the laws, regulations and administrative</p>	<p>assessed," and Article 46, which states "as regards health protection of the population each Member State shall establish a system of inspection to enforce the provisions introduced in compliance with this Directive and to initiate surveillance in the area of radiation protection."</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>International Federation for Human Rights (FIDH) v. Greece, Complaint No. 72/2011, Decision on the merits of 23 January 2013</p> <p>140. As regards waste management, the Committee notes that, in 2009, the Court of Justice of the European Union declared that Greece has failed to fulfill its obligations under different provisions of Council Directive 91/689/EEC on hazardous waste (read in conjunction with the provisions of other EU Directives) and Directive 1999/31/EC on the landfill of waste</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2007, Belgium</p> <p>The Committee wishes to know what measures have been taken to monitor nitrate pollution, pursuant to the European nitrates directive.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVIII-2 (2007), Latvia</p> <p>In the case of emissions of dangerous substances, Latvia has until 2015 to implement the directive 91/271/EEC concerning urban waste water treatment nitrates. The report underlines that the action programme on reduction of pollution made by dangerous substances has not been achieved yet and that Latvia will prepare a report on its implementation every two years. As the major tasks of the programme is to identify precisely all sources of pollution and to propose monitoring needs, the list of dangerous substances is not completed yet either. The Committee asks to be kept informed on the progress achieved.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVII-2 (2005), Portugal</p> <p>Asbestos – In addition to the information in the previous report, the Committee notes that Portugal has brought its legislation into line with</p>
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		<p>provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations</p>	<p>Council Directive 76/769/EEC of 27 July 1976 on the approximation of the laws, regulations and administrative provisions of the Member States relating to restrictions on the marketing and use of certain dangerous substances and preparations, as modified by directives 83/478, 85/610 91/659, which ban the use of chrysotile other than for certain categories of products, and then subject to adequate labelling. Resolution No. 24/2004, in application of Commission Directive 1999/77/EC of 26 July 1999, prohibits the use of asbestos in the construction of public buildings and requires the government to draw up an inventory of all public buildings containing asbestos.</p> <p>The Committee considers that these measures are consistent with Article 11§3 of the Charter. However, they are not sufficient. Compliance with this provision entails a policy that bans the use, production and sale of asbestos and products containing it. If the necessary information does not appear in the next report, Portugal will not have shown that it is complying with this provision of the Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>« Article 12 : The right to social security</p> <p>With a view to ensuring the effective exercise of the right to social security, the Parties undertake:</p> <p>§1 to establish or maintain a system of social security;</p> <p>§2 to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security;</p>	<p>Article 151§1 TFUE (ex-article 136 TEC)</p> <p>« The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high</p>		

<p>§3 to endeavour to raise progressively the system of social security to a higher level;»</p>	<p>employment and the combating of exclusion. »</p> <p>Article 34 §§ 1 et 2 CFR</p> <p>« 1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Union law and national laws and practices.</p> <p>2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Union law and national laws and practices. »</p>		
<p>Article 12§4 to take steps, by the conclusion of appropriate bilateral and multilateral agreements or by other means, and subject to the conditions laid down in such agreements, in order to ensure:</p> <p>a equal treatment with their own nationals of the nationals of other Parties in respect of social security rights,</p>	<p>Article 18 TFUE (ex-article 12 TEC)</p> <p>« Within the scope of application of the Treaties, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited. »</p> <p>Article 21§1 TFUE (ex-article 18 TCE)</p> <p>« 1. Every citizen of the Union shall</p>	<p>Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality</p> <p>Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC)</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions 2013, Austria</p> <p>The coordination of social security systems of the European Union Member States (EU) is governed by Regulation (EC) No. 883/2004 and by Regulation (EC) No. 987/2009 (these regulations apply also to Member States of the European Economic Area – EEA). Article 4 of Regulation (EC) No. 883/2004 explicitly provides for equality of treatment between nationals, on the one hand, and, on the other hand, nationals of other Member States, stateless persons and refugees resident in the territory of a Member State who are or have been subject to the social security legislation of one or more Member States, as well as to the members of their families and to their survivors. Regulation (EC) No. 883/2004 and Regulation (EC) No. 987/2009 are extended by Regulation (EU) No. 1231/2010 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality, as well as to members of their families and their survivors, provided that they are legally resident in the territory of a Member State and are in a situation which is not confined in all respects</p>

<p>including the retention of benefits arising out of social security legislation, whatever movements the persons protected may undertake between the territories of the Parties;</p> <p>b the granting, maintenance and resumption of social security rights by such means as the accumulation of insurance or employment periods completed under the legislation of each of the Parties.</p>	<p>have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect.</p> <p>»</p>	<p>No 883/2004 on the coordination of social security systems</p> <p>Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems</p>	<p>within a single Member State (Article 1). This concerns, inter alia, the situation of a third country national who has links only with a third country and a single Member State.</p> <p>-COMPATIBILITY-</p>
<p>« Article 13 : The right to social and medical assistance With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:</p> <p>§1 to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security</p>	<p>Article 18 TFUE (ex-article 12 TEC) « Within the scope of application of the Treaties, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited.</p> <p>The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may</p>	<p>ECJ : Case <i>Swaddling</i>, C-90/97, Reference for a preliminary ruling of 25 February 1999</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports - Conclusions XVII-1 (2005), United-Kingdom</p> <p>The previous conclusion found that the situation was not in conformity with the Charter because of the application of an habitual residence test (HRT) to persons who claim social assistance (Income Support). The Committee notes that the HRT still applies to all foreigners (and UK nationals) who settle in the United Kingdom for the first time. Further following the ECJ's judgment in the <i>Swaddling</i> case¹ the HRT does not apply to a claimant of any nationality who was previously resident in the United Kingdom, Republic of Ireland, Channel Islands or the Isle of Man and moved and lived in another country and returns to resume previous residence is habitually resident immediately upon arrival in the United Kingdom.</p> <p>-COMPATIBILITY-</p>

<p>scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;</p> <p>§2 to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;</p> <p>§3 to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;</p> <p>§4 to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at</p>	<p>adopt rules designed to prohibit such discrimination.»</p> <p>Article 21§1 TFUE (ex-article 18 TCE) « 1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect. »</p> <p>Article 151§1 TFUE (ex-article 136 TEC) « The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of</p>		
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Paris on 11
December 1953. »

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working conditions,
so as to make
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while the
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being maintained,
proper social
protection, dialogue
between
management and
labour, the
development of
human resources
with a view to
lasting high
employment and
the combating of
exclusion. »

Article 34 CFR

« 1. The Union
recognises and
respects the
entitlement to
social security
benefits and social
services providing
protection in cases
such as maternity,
illness, industrial
accidents,
dependency or old
age, and in the
case of loss of
employment, in
accordance with
the rules laid down
by Union law and
national laws and
practices.

2. Everyone

	<p>residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Union law and national laws and practices.</p> <p>3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices. »</p>		
<p>« Article 14 : The right to benefit from social welfare services</p> <p>With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake:</p>	<p>Article 151§1 TFUE (ex-article 136 TCE)</p> <p>« The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall</p>		

<p>§1 to promote or provide services which, by using methods of social work, would contribute to the welfare and development of both individuals and groups in the community, and to their adjustment to the social environment;</p> <p>§2 to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services .»</p>	<p>have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion. »</p> <p>Article 34 CFR</p> <p>« 1. The Union recognises and respects the entitlement to social security benefits and social services providing protection in cases such as maternity, illness, industrial accidents, dependency or old age, and in the case of loss of employment, in accordance with the rules laid down by Union law and national laws and practices.</p> <p>2. Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with Union law and national laws and practices.</p> <p>3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in</p>		
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	accordance with the rules laid down by Union law and national laws and practices. »		
<p>Article 15 : The right of persons with disabilities to independence, social integration and participation in the life of the community</p> <p>With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:</p> <p>§1 to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private;</p>	<p>Article 26 CFR</p> <p>« The Union recognises and respects the right of persons with disabilities to benefit from measures designed to ensure their independence, social and occupational integration and participation in the life of the community. »</p>		
Article 15§2 to		Directive 2000/78/EC of the	Monitoring procedure of the implementation of the Charter based on

<p>promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services;</p> <p>Article 15§3 to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure. »</p>		<p>Council of 27 November 2000 establishing a general framework for equal treatment in employment and occupation</p>	<p>national reports – Conclusions XVI-2 (2004), Denmark</p> <p>The Committee observes that according to the report there are no measures protecting employees with disabilities from dismissal nor are employers under an obligation to continue to employ a person who becomes disabled following an occupational injury or disease. The Committee considers that the legal situation of persons with disabilities requires anti-discrimination legislation. However it further notes that Council Directive 2000/78/EC of 27 November 2000 on the Establishment of a framework for equal treatment in employment and occupation requires member states to adopt measures in the field of employment and training protecting inter alia, persons with disabilities. It asks to be kept informed of all development in the transposition of the Directive. Meanwhile it concludes that Denmark is not in conformity with the Charter on this point.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
« Article 16 : The	Article 9 CFR	ECJ : Heinz Huber v	Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint

<p>right of the family to social, legal and economic protection</p> <p>With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means. »</p>	<p>« The right to marry and the right to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights. »</p> <p>Article 24 CFR « 1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their age and maturity.</p> <p>2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.</p> <p>3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with</p>	<p>Bundesrepublik Deutschland, Case C-524/06, of 16 December 2008</p> <p>Directive 2003/109/EC of the Council, of 25 November 2003 concerning the status of third-country nationals who are long-term residents</p> <p>Directive 95/46/EC of the European Parliament and of the Council of 24 October</p>	<p>No. 58/2009, Decision on the merits of 25 June 2010</p> <p>120. In this context, if discretion must be left to the competent national authorities, the margin will tend to be narrower where the right at stake is crucial to the individual's effective enjoyment of intimate or key rights (see, mutatis mutandis, European Court of Human Rights, <i>Connors v. the United Kingdom</i>, judgment of 27 May 2004, § 82). Where a particularly important facet of an individual's existence or identity is at stake, the discretion allowed to the State will be restricted (see, mutatis mutandis, European Court of Human Rights, <i>Evans v. the United Kingdom [GC]</i>, judgment of 10 April 2007, § 77). Similarly, by interpreting Article 7 of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, the Court of Justice of the European Union (see, mutatis mutandis, case C-524/, <i>Huber v. Bundesrepublik Deutschland [GC]</i>, judgment of 16 December 2008, §§ 63-65) has stated that, while Community Law has not excluded the power of Member States to adopt measures enabling the national authorities to have an exact knowledge of population movements affecting their territory, the exercise of that power does not, of itself, mean that the collection and storage of individualised personal information is necessary.</p> <p>121. The Committee considers that these principles of interpretation are also valid in the context of Article 16 of the Revised Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions XIX-4 (2011), Austria</p> <p>In its last conclusion (Conclusions XVIII-1), the Committee ruled that the situation was not compatible with Article 16 because there was no guarantee of equal treatment for nationals of the other states party to the 1961 Charter and the Charter regarding housing allowances, owing to the three months 12 employment condition. It notes however that, according to another source², since 2006, following the transposition of Directive 2003/109/EC, long-term residents from third countries in all the Länder have been eligible for social housing under the same conditions as nationals.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, Decision on the merits of 25 June 2010</p>
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	<p>both his or her parents, unless that is contrary to his or her interests. »</p> <p>Article 33 §1 CFR « 1. The family shall enjoy legal, economic and social protection. »</p>	<p>1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data</p>	<p>120. In this context, if discretion must be left to the competent national authorities, the margin will tend to be narrower where the right at stake is crucial to the individual's effective enjoyment of intimate or key rights (see, mutatis mutandis, European Court of Human Rights, <i>Connors v. the United Kingdom</i>, judgment of 27 May 2004, § 82). Where a particularly important facet of an individual's existence or identity is at stake, the discretion allowed to the State will be restricted (see, mutatis mutandis, European Court of Human Rights, <i>Evans v. the United Kingdom [GC]</i>, judgment of 10 April 2007, § 77). Similarly, by interpreting Article 7 of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, the Court of Justice of the European Union (see, mutatis mutandis, case C-524/, <i>Huber v. Bundesrepublik Deutschland [GC]</i>, judgment of 16 December 2008, §§ 63-65) has stated that, while Community Law has not excluded the power of Member States to adopt measures enabling the national authorities to have an exact knowledge of population movements affecting their territory, the exercise of that power does not, of itself, mean that the collection and storage of individualised personal information is necessary.</p> <p>121. The Committee considers that these principles of interpretation are also valid in the context of Article 16 of the Revised Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>Article 17 : The right of children and young persons to social, legal and economic protection</p> <p>With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either</p>	<p>Article 14 §§1 et 2 CFR « 1. Everyone has the right to education and to have access to vocational and continuing training.</p> <p>2. This right includes the possibility to receive free compulsory education. »</p> <p>Article 24 CFR « 1. Children shall have the right to such protection and care as is necessary for their well-being. They may express their views freely. Such views shall be taken into consideration on matters which concern them in accordance with their</p>		

<p>directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:</p> <p>§1 a to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;</p> <p>b to protect children and young persons against negligence, violence or exploitation;</p> <p>c to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support;</p> <p>§2 to provide to</p>	<p>age and maturity.</p> <p>2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.</p> <p>3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests. »</p>		
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<p>children and young persons a free primary and secondary education as well as to encourage regular attendance at schools. »</p>			
<p>« Article 18 : The right to engage in a gainful occupation in the territory of other Parties</p> <p>With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:</p> <p>Article 18§1 to apply existing regulations in a spirit of liberality;</p> <p>Article 18§2 to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;</p> <p>Article 18§3 to liberalise, individually or collectively, regulations governing the employment of foreign workers;</p>	<p>Article 21§1 TFUE (ex-article 18 TEC) « 1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect. »</p> <p>Article 45 §§1 et 2 TFUE (ex-article 39 TEC) « 1. Freedom of movement for workers shall be secured within the Union. FR 30.3.2010 Official Journal of the European Union C 83/65 2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.»</p> <p>Article 49§1 TFUE (ex-article 43 TEC) « Within the framework of the provisions set out below, restrictions on the freedom of establishment of nationals of a Member</p>		

<p>Article 18§4 the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties. »</p>	<p>State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State. »</p> <p>Article 15 CFR « 1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation. 2. Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State 3. Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union.»</p>		
<p>« Article 19 : The right of migrant workers and their families to protection and assistance</p> <p>With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake:</p>	<p>Article 45 §§1 et 2 TFUE (ex-article 39 TEC) « 1. Freedom of movement for workers shall be secured within the Union. FR 30.3.2010 Official Journal of the European Union C 83/65</p> <p>2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other</p>		

<p>§1 to maintain or to satisfy themselves that there are maintained adequate and free services to assist such workers, particularly in obtaining accurate information, and to take all appropriate steps, so far as national laws and regulations permit, against misleading propaganda relating to emigration and immigration;</p> <p>§2 to adopt appropriate measures within their own jurisdiction to facilitate the departure, journey and reception of such workers and their families, and to provide, within their own jurisdiction, appropriate services for health, medical attention and good hygienic conditions during the journey;</p> <p>§3 to promote co-operation, as appropriate, between social services, public and private, in emigration and immigration countries;</p>	<p>conditions of work and employment. »</p> <p>Article 49§1 (ex-article 43 TEC) « Within the framework of the provisions set out below, restrictions on the freedom of establishment of nationals of a Member State in the territory of another Member State shall be prohibited. Such prohibition shall also apply to restrictions on the setting-up of agencies, branches or subsidiaries by nationals of any Member State established in the territory of any Member State. »</p> <p>Article 15 CFR « 1. Everyone has the right to engage in work and to pursue a freely chosen or accepted occupation. 2. Every citizen of the Union has the freedom to seek employment, to work, to exercise the right of establishment and to provide services in any Member State. 3. Nationals of third countries who are authorised to work in the territories of the Member States are entitled to working conditions equivalent to those of citizens of the Union. »</p>		
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<p>§4 to secure for such workers lawfully within their territories, insofar as such matters are regulated by law or regulations or are subject to the control of administrative authorities, treatment not less favourable than that of their own nationals in respect of the following matters:</p> <p>a. remuneration and other employment and working conditions;</p> <p>b. membership of trade unions and enjoyment of the benefits of collective bargaining;</p> <p>c. accommodation;</p>		<p>Directive 2004/113/EC of the Council, of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services</p> <p>Directive 2002/73/CE of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions</p> <p>Directive 2000/78/EC of the Council of 27 November 2000 establishing a general framework for equal treatment in employment and occupation</p> <p>Directive 2000/43/CE of the Council of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2011, Ireland</p> <p>The Civil Law (Miscellaneous Provisions) Act 2008, completed the transposition into national law of the EU Gender Goods and Services Directive (2004/113/EC)</p> <p>In its last conclusion (2006), the Committee considered that the legal framework which aims at insuring equality in Ireland in this area was in conformity with the Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2011, Ireland</p> <p>The report also points out that the Equality Act 2004 amended the Employment Equality Act 1998 and the Equal Status Act 2000 to transpose into Irish Law three European Union (EU) directives: the Race Directive (2000/43/EC), implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; the Framework Employment Directive (2000/78/EC), establishing a general framework for equal treatment in employment; the Gender Equal Treatment in Employment Directive (2002/73/EC), amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for women admen as regards access to employment, vocational training and promotion, and working conditions.</p> <p>In its last conclusion (2006), the Committee considered that the legal framework which aims at insuring equality in Ireland in this area was in conformity with the Charter. However, it asked that the next report contain information on the situation in practice. The report does not contain the requested information.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2006, Finland</p> <p>In the area of access to housing, the Committee takes note of the new Non-Discrimination Act No. 21/2004, which implements EU Directives on equal treatment and non-discrimination (Council Directive (2000/43/EC) implementing the principle of equal treatment of persons irrespective of racial or ethnic origin, and, Council Directive (2000/78/EC) establishing a</p>
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			<p>general framework for equal treatment in employment and occupation.), and extends, inter alia, to the supply and access to housing.</p> <p>The Committee notes that there is no distinction in domestic legislation between Finnish nationals and foreigners with a view to obtaining housing allowances.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2006, Ireland</p> <p>The report indicates that the new Equality Act entered into force in 2004 incorporating three European Union Equality Directives (Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Directive 2000/78/EC establishing a general framework for equal treatment in employment; and Directive 2002/73/EC amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for women and men as regards access to employment, vocational training and promotion, and working conditions.) into Irish Law. The new Act makes a number of changes to the Employment Equality Act 1998.</p> <p>whether they are nationals or foreigners legally residing in the country), prohibits discrimination on nine grounds - gender, marital status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community. It provides an entitlement to equal pay for work of equal value, and also prohibits discrimination by an organisation of workers on any of the above discriminatory grounds (in relation to membership of that organisation or any benefits provided by it, other than pension rights).</p> <p>According to the report there have been no changes in the area of entitlement to housing, where all laws apply equally to nationals and to legally resident non-nationals. Likewise, the report indicates that there have been no changes in the fields of employment and trade union membership, where protective statutes also apply equally to nationals and legally resident non-nationals.</p> <p>The Committee considers that the legal framework which aims at ensuring equality in Ireland in the areas covered under this provision is in conformity with Article 19§4.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
Article 19§5	to Article 21§1 TFUE		

<p>secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals with regard to employment taxes, dues or contributions payable in respect of employed persons;</p>	<p>(ex-article 18 TEC) « 1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect. »</p>		
<p>Article 19§6 to facilitate as far as possible the reunion of the family of a foreign worker permitted to establish himself in the territory;</p>	<p>Article 21§1 TFUE (ex-article 18 TEC) « 1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect. »</p>	<p>EUCJ : Rhimou Chakroun v Minister van Buitenlandse Zaken, Case C-578/08, Reference for a preliminary ruling of 4 March 2010</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2011, Statement of interpretation on Article 19§6</p> <p>The Committee notes that with regard to the implementation of Article 19§6, several States have invoked the application of the Directive of the European Union (EU) 2003/86/EC on the right to family reunification. In this regard, the Committee recalls that it rules on the Charter and not on EU law. In any case, it notes that the above directive, expressis verbis, is without prejudice to more favourable provisions of the Charter.</p> <p>Referring to its decision of 23 June 2010 on the merits of Complaint No. 55/2009, Confédération générale du Travail (CGT) v. France (§§ 31-42), the Committee concludes that the above-mentioned directive contains provisions allowing the member states concerned to adopt and apply rules that infringe Article 19§6 of the Charter. These provisions concern in particular: a) the length of residence requirement for migrant workers wishing to be joined by members of their family. In this connection, the Committee has always considered (cf. Conclusions I, Germany), taking account of the provisions of the European Convention on the Legal Status of Migrant Workers (ETS No. 93), that a length of more than one year is excessive and, consequently, in breach of the Charter. b) the exclusion of social assistance from the calculation of the income of a migrant worker who has applied for family reunion (in connection with the criteria relating to available means). The Committee notes that the Court of Justice of the EU (CJEU) has already limited the possibility provided by the above-mentioned Directive to restrict family reunification on the ground of available income (see CJEU judgment of 4 March 2010, case Chakroun, C-578/ 08, paragraph 48). The Committee recalls in this respect that migrant workers who have sufficient income to provide for the members of their families should not be automatically denied the right to family reunion because of the origin of such income, in so far as they are legally entitled to the benefits they may receive. In view of the above and of the relevant case-law of the</p>

		<p>ECJ : European Parliament v Council of the European Union., Case C-540/03, of 27 June 2006</p> <p>Directive 2003/86/EC of the Council, of 22 September 2003 on the right to family reunification</p>	<p>European Court of Human Rights (ECtHR) - see judgment of 19 February 1996, <i>Gül v. Switzerland</i>, No. 23218/94 – the Committee considers that the above-mentioned exclusion is such as to prevent family reunion rather than facilitating it. It accordingly constitutes a restriction likely to deprive the obligation laid down in Article 19§6 of its substance and is consequently not in conformity with the Charter. c) the requirement that members of the migrant worker's family sit language and/or integration tests to be allowed to enter the country, or pass these tests once they are in the country to be granted leave to remain. In this connection, the Committee considers that, in so far as this requirement, because of its particularly stringent nature, discourages applications for family reunion, it constitutes a condition likely to prevent family reunion rather than facilitating it. It accordingly constitutes a restriction likely to deprive the obligation laid down in Article 19§6 of its substance and is consequently not in conformity with the Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions XIX-4 (2011), Austria</p> <p>With respect to the Community Law, the Committee recalls that the EU Directive 2003/86/EC is without prejudice to more favourable provisions of instruments, including the 1961 Charter (cf. Art. 3§2, littera b of the above-mentioned directive) and that this principle was recently upheld by the European Court of Justice (See judgment of the Court of 27 June 2006, Case C-540/03, <i>Parliament v. Council</i> (2006) ECR, I-576).</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2011, Statement of interpretation on Article 19§6</p> <p>The Committee notes that with regard to the implementation of Article 19§6, several States have invoked the application of the Directive of the European Union (EU) 2003/86/EC on the right to family reunification. In this regard, the Committee recalls that it rules on the Charter and not on EU law. In any case, it notes that the above directive, <i>expressis verbis</i>, is without prejudice to more favourable provisions of the Charter.</p> <p>Referring to its decision of 23 June 2010 on the merits of Complaint No. 55/2009, <i>Confédération générale du Travail (CGT) v. France</i> (§§ 31-42), the Committee concludes that the above-mentioned directive contains provisions allowing the member states concerned to adopt and apply rules that infringe Article 19§6 of the Charter. These provisions concern in</p>
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particular: a) the length of residence requirement for migrant workers wishing to be joined by members of their family. In this connection, the Committee has always considered (cf. Conclusions I, Germany), taking account of the provisions of the European Convention on the Legal Status of Migrant Workers (ETS No. 93), that a length of more than one year is excessive and, consequently, in breach of the Charter. b) the exclusion of social assistance from the calculation of the income of a migrant worker who has applied for family reunion (in connection with the criteria relating to available means). The Committee notes that the Court of Justice of the EU (CJEU) has already limited the possibility provided by the above-mentioned Directive to restrict family reunification on the ground of available income (see CJEU judgment of 4 March 2010, case Chakroun, C-578/ 08, paragraph 48). The Committee recalls in this respect that migrant workers who have sufficient income to provide for the members of their families should not be automatically denied the right to family reunion because of the origin of such income, in so far as they are legally entitled to the benefits they may receive. In view of the above and of the relevant case-law of the European Court of Human Rights (ECtHR) - see judgment of 19 February 1996, Gül v. Switzerland, No. 23218/94 – the Committee considers that the above-mentioned exclusion is such as to prevent family reunion rather than facilitating it. It accordingly constitutes a restriction likely to deprive the obligation laid down in Article 19§6 of its substance and is consequently not in conformity with the Charter. c) the requirement that members of the migrant worker's family sit language and/or integration tests to be allowed to enter the country, or pass these tests once they are in the country to be granted leave to remain. In this connection, the Committee considers that, in so far as this requirement, because of its particularly stringent nature, discourages applications for family reunion, it constitutes a condition likely to prevent family reunion rather than facilitating it. It accordingly constitutes a restriction likely to deprive the obligation laid down in Article 19§6 of its substance and is consequently not in conformity with the Charter.

-INCOMPATIBILITY-

Monitoring procedure of the implementation of the Charter based on national reports – Conclusions XIX-4 (2011), Germany

Some of the principles set out in European Union Directive 2003/86/EC on the right to family reunification were incorporated into: a) the Act on the residence, employment and integration of foreign nationals on federal territory (AufenthG, Aufenthaltsgesetz) of 30 July 2004; b) the Act on the General Freedom of Movement for EU citizens of 30 July 2004. These acts entered into force in 2005. The Act incorporating the EU directives on residence and asylum rights into domestic law of 2007 made significant amendments to the aforementioned acts, which also related to family

		<p>Directive 64/221/EEC of 25 February 1964 on the co-ordination of special measures concerning the movement and residence of foreign nationals which are justified on grounds of public policy, public security or public health</p>	<p>reunion. The report points out that these amendments are compatible with EU Directive 2003/86/EC. In this respect, the Committee points out that Article 3§4b of Directive 2003/86/EC on the right to family reunification states that the directive is without prejudice to more favourable provisions of instruments including the 1961 Charter and that this principle was recently upheld by the European Court of Justice.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2006, Finland</p> <p>The Committee notes that under the new Aliens Act (301/2004) which has been adopted during the reference period the migrant's family members which can benefit from family reunion are the following: the spouse, unmarried children under 18 years of age, the guardian of a minor residing in Finland, a same sex registered partner or a partner in a marriage-like relationship when the persons have lived together for at least two years. The Committee considers that the broad definition of persons that can benefit from family reunification, as well as the age limit of 18 years for dependant and unmarried children, are in conformity with the requirements of the Revised Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>Article 19§7 to secure for such workers lawfully within their territories treatment not less favourable than that of their own nationals in respect of legal proceedings relating to matters referred to in this article;</p>	<p>Article 21§1 TFUE (ex-article 18 TEC) « 1. Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in the Treaties and by the measures adopted to give them effect. »</p>	<p>Directive 2002/8/EC of the Council, of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions XIX-4 (2011), Poland</p> <p>The Committee takes note of the information contained in the report submitted by Poland, in particular the information on the legislation implementing Council Directive 2002/8/EC of 27 January 2003 to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes. It notes from all the information at its disposal that there have been no changes to the situation, which it has previously considered to be in conformity with Article 19§7 of the 1961 Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>Article 19§8 to</p>		<p>Directive 2004/38/EC of the</p>	<p>Centre on Housing Rights and Evictions (COHRE) v. France,</p>

<p>secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality;</p>		<p>European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC</p> <p>Directive 2003/86/EC of the Council, of 22 September 2003 on the right to family reunification</p>	<p>Complaint No. 63/2010, Decision on the merits of 28 June 2011</p> <p>69. As to the submissions of the Government that the Roma who were expelled from French territory "were in the country illegally", and that "the aim was to maintain law and order and safeguard internal security", the Committee considers that these are not consistent with the use of standard forms of orders to leave French territory with identical content, with no account taken of individual circumstances or how long those concerned had been in France. To the contrary, these expulsions were based on considerations relating to prevention and ethnic origin. The Government has not even substantiated its claim that the the Roma of Romanian and Bulgarian origin, the expulsion of whom is the subject of this complaint, were in the country unlawfully, having regard to the transitional provisions of the Act of Accession to the European Union of Romania and Bulgaria and the rights of entry and residence of citizens of the European Union and members of their families, as governed by Directive 2004/38/EC.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2006, Slovenia</p> <p>The authorities indicate that the Aliens Act, which permits the annulment of a temporary residence permit and the subsequent expulsion of a person who is considered to have insufficient resources, has not been amended. The main argument relied on in support of maintaining this provision is that it is in line with the <i>acquis communautaire</i>, in particular a new directive on the right to family reunification (Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification). The Committee nevertheless considers that this reasoning does not hold together. The directive in effect mentions the question of stable and regular resources as a condition for a foreigner lawfully residing in a Member State to exercise family reunion. However, there is no mention whatsoever in the Directive to expulsion of a person for having inadequate means. The Committee has indicated that national legislations permitting the expulsion of a foreigner on grounds of a person's poverty went beyond the grounds for expulsion accepted by Article 19§8, and were not in conformity with the Charter (Conclusions V, p. 138 and 139). Under this provision, the expulsion of a migrant worker is only permitted for reasons relating to national security, public interest or morality.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>Article 19§9 to</p>			

<p>permit, within legal limits, the transfer of such parts of the earnings and savings of such workers as they may desire;</p> <p>Article 19§10 to extend the protection and assistance provided for in this article to self-employed migrants insofar as such measures apply;</p> <p>Article 19§11 to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families;</p> <p>Article 19§12 to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.</p>			
<p>« Article 20 : The right to equal opportunities and equal treatment in matters of employment and</p>	<p>Article 10 TFUE « In defining and implementing its policies and activities, the Union shall aim to combat</p>	<p>Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2012, Cyprus</p> <p>The Committee previously concluded that the situation in Cyprus is not in conformity with Article 20 of the Charter on the ground that it is not possible to make a comparison of jobs outside the company directly concerned in</p>

<p>occupation without discrimination on the grounds of sex</p> <p>With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:</p> <p>a access to employment, protection against dismissal and occupational reintegration;</p> <p>b vocational guidance, training, retraining and rehabilitation;</p>	<p>discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. »</p> <p>Article 157 TFUE (ex-article 141 TEC)</p> <p>« 1. Each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied. »</p> <p>Article 23 CFR « Equality between women and men must be ensured in all areas, including employment, work and pay.</p> <p>The principle of equality shall not prevent the maintenance or adoption of measures providing for specific advantages in favour of the under-represented sex. »</p>	<p>and women in matters of employment and occupation (recast)</p> <p>Directive 97/80/EC of the Council of 15 December 1997 on the burden of proof in cases of discrimination based on sex</p> <p>Directive 96/97/EC of the Council, of 20 December 1996 amending Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes</p>	<p>unequal pay claims. In 2009, a new amended Law was enacted (L. 38(l)/2009), transposing into national law the new Directive 2006/54/EC of the European Commission on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). The new Law includes an amendment, through which, the comparison of wages between employees was extended to enterprises of the same group of companies. The Committee considers that the situation is now in conformity in this respect.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions XVII-2 (2005), Netherlands</p> <p>For instance, the WGB was amended in 2001 and now provides for a reversal of the burden of proof in accordance with Directive 97/80/EC of 15 December 1997 on the burden of proof in cases of discrimination based on sex[1]. Although the Committee did not specifically raise this question with regard to the Netherlands, it points out that shifting the burden of proof in the event of an allegation of discrimination based on sex is also one of the prerequisites for conformity with Article 1 of the Additional Protocol.</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2008, Netherlands</p> <p>On the question of equality of pay between men and women, the Committee has in the past come to a conclusion of non-conformity both under Article 4§3 and Article 1 of the Additional Protocol on the grounds that the notion of remuneration used for the application of the principle of equal pay was not sufficiently large as it excluded benefits or rights linked to a pension scheme (Conclusions XVI-2, Article 4§3, and Conclusions XVII-2, Article 1 of the Additional Protocol). The Committee acknowledges that this assessment was made on a misunderstanding on the legal framework on equal pay. It notes from the report that the civil code and Equal Treatment Act (which both contain the equal pay principle) were amended in 1998 following Directive 96/97/CE of 20 December 1996 on the implementation of the principle of equal treatment for men and women in occupational social security schemes. Noting therefore that the principle of equal treatment also applies to benefits or rights linked with a pension scheme, the Committee considers that the definition of pay is sufficiently wide, and in conformity with the requirements of the Revised Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
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<p>Article 20</p> <p>c terms of employment and working conditions, including remuneration;</p>		<p>Directive 75/117/EEC of the Council, of 10 February 1975 on the approximation of the laws of the Member States relating to the application of the principle of equal pay for men and women</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2008, Cyprus</p> <p>Law 177 of 2002 on equal pay for men and women for similar work or work of equal value was amended in 2004 to harmonise Cypriot legislation with Council Directive 75/117/EEC relating to the application of the principle of equal pay for men and women. Whilst the aim and contents of this law are in line with the requirements of the Revised Charter, the Committee recalls that it came to a conclusion of non-conformity on this point in its previous conclusion because the scope of comparison of jobs and wages did not extend outside the company directly concerned. The recent amendment to Law 177 of 2002 does still not make provision for comparisons outside the same employer. The report indicates that the authorities in principle agree with the Committee's conclusion on this point and are considering changing the law to permit that comparison of wages can be extended outside the company concerned. Until this amendment is introduced in the law the Committee must reiterate its conclusion of non-conformity.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>Article 20</p> <p>d career development, including promotion. »</p>			

<p>« Article 21 : The right to information and consultation</p> <p>With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice:</p> <p>a to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and</p> <p>b to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly</p>	<p>Article 151§1 TFUE (ex-article 136 TEC)</p> <p>« The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion. »</p> <p>Article 27 CFR « Workers or their</p>	<p>ECJ : Case CGT and Others, C-385/05, Reference for a preliminary ruling of 18 January 2007</p> <p>Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation</p>	<p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2010, Belgium</p> <p>As the Committee has noted previously (Conclusions 2007), the minimum framework which it has adopted for Article 21 of the Revised Charter is Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002, the scope of which is restricted, according to the choice made by member states, to undertakings with at least 50 employees or establishments with at least 20 employees in any one EU member state. Furthermore, when assessing compliance with Article 21 of the Revised Charter, the Committee considers that all categories of employee (in other words all employees with an employment contract with an undertaking, whatever their status, length of service or workplace) must be taken into account when calculating the number of employees covered by the right to information and consultation. Judgment of the European Court of Justice of 18 January 2007 (<i>Confédération générale du travail (CGT) and Others, Case C-385/05</i>)</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2010, Albania</p> <p>As the Committee has noted previously (Conclusions 2007), the minimum framework which it has adopted for Article 21 of the Revised Charter is Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002, the scope of which is restricted, according to the choice made by member states, to undertakings with at least 50 employees or establishments with at least 20 employees in any one EU member state. Furthermore, when assessing compliance with Article 21 of the Revised Charter, the Committee considers that all categories of employee (in other words all employees with an employment contract with an undertaking, whatever their status, length of service or workplace) must be taken into account when calculating the number of employees covered by the right to information and consultation (Judgment of the European Court of Justice of 18 January 2007 (<i>Confédération générale du travail (CGT) and Others, Case C-385:05</i>)).</p> <p style="text-align: center;">-COMPATIBILITY-</p> <p>Monitoring procedure of the implementation of the Charter based on national reports – Conclusions 2007, Italy</p> <p>However, the report further states that during the reference period the transposition of Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for</p>
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<p>on those decisions which could have an important impact on the employment situation in the undertaking.»</p>	<p>representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Union law and national laws and practices. »</p>		<p>informing and consulting employees in the European Community³ was underway and the Committee wishes to be informed on any development in this respect. It wishes the next report to specify whether and in which way the system as regards the right to information and consultation of workers within the undertaking has been amended by a possible implementation of Directive 2002/14/EC and asks what are the applicable rules in this respect. Should the situation have remained unchanged, it reiterates its questions posed in its previous conclusion (<i>ibidem</i>) in order to assess the conformity of the situation with the Revised Charter.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>« Article 22 : The right to take part in the determination and improvement of the working conditions and working environment</p> <p>With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:</p> <p>a to the determination and the improvement of</p>	<p>Article 151§1 TFUE (ex-article 136 TEC)</p> <p>« The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion. »</p>		

<p>the working conditions, work organisation and working environment;</p> <p>b to the protection of health and safety within the undertaking;</p> <p>c to the organisation of social and socio-cultural services and facilities within the undertaking;</p> <p>d to the supervision of the observance of regulations on these matters. »</p>			
<p>« Article 23 : The right of elderly persons to social protection</p> <p>With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:</p>	<p>Article 151§1 TFUE (ex-article 136 TEC)</p> <p>« The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection,</p>		

<p>- to enable elderly persons to remain full members of society for as long as possible, by means of:</p> <p>a adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;</p> <p>b provision of information about services and facilities available for elderly persons and their opportunities to make use of them;</p> <p>- to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:</p> <p>a the right of all workers not to have their employment terminated without</p>	<p>dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.»</p> <p>Article 25 CFR « The rights of the elderly</p> <p>The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life. »</p>		
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<p>valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;</p> <p>b the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.</p> <ul style="list-style-type: none"> - to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution. » 			
<p>« Article 24 : The right to protection in cases of termination of employment</p>	<p>Article 30 CFR « Every worker has the right to protection against unjustified dismissal, in accordance with Union law and</p>		

<p>With a view to ensuring the effective exercise of the right of workers to protection in cases of termination of employment, the Parties undertake to recognise:</p> <p>a the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;</p> <p>b the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.</p> <p>To this end the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.»</p>	<p>national laws and practices. »</p>		
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<p>« Article 25 : The right of workers to the protection of their claims in the event of the insolvency of their employer</p> <p>With a view to ensuring the effective exercise of the right of workers to the protection of their claims in the event of the insolvency of their employer, the Parties undertake to provide that workers' claims arising from contracts of employment or employment relationships be guaranteed by a guarantee institution or by any other effective form of protection. »</p>		<p>Directive 80/987/CEE of the Council of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer</p>	<p>Explanatory Report to the Charter</p> <p>This provision has been inspired by ILO Convention No. 173 (Protection of Workers' Claims (Employers' insolvency)) of 1992 and of European Community Directive 80/987/CEE on the approximation of the laws of the member States relating to the protection of employees in the event of the insolvency of their employer. It lays down the general principle of the right of workers to protection of their claims in the event of the insolvency of their employer.</p> <p style="text-align: center;">-COMPATIBILITY-</p>
<p>« Article 26: The right to dignity at work</p> <p>With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers'</p>	<p>Article 151§1 TFUE (ex-article 136 TEC)</p> <p>« The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved</p>		

<p>organisations:</p> <p>§1 to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct;</p> <p>§2 to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.»</p>	<p>living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.»</p> <p>Article 31 §1 CFR « 1. Every worker has the right to working conditions which respect his or her health, safety and dignity. »</p>		
<p>« Article 27 : The right of workers with family responsibilities to equal opportunities and equal treatment</p> <p>With a view to ensuring the exercise of the right to equality of opportunity and</p>	<p>Article 10 TFUE « In defining and implementing its policies and activities, the Union shall aim to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. »</p> <p>Article 158 TFUE (ex-article 142 TEC)</p>		

treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:

§1 to take appropriate measures:

a to enable workers with family responsibilities to enter and remain in employment, as well as to reenter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;

b to take account of their needs in terms of conditions of employment and social security;

c to develop or promote services, public or private, in particular child daycare services and other childcare arrangements;

« Member States shall endeavour to maintain the existing equivalence between paid holiday schemes. »

Article 33 §2 CFR
« 2. To reconcile family and professional life, everyone shall have the right to protection from dismissal for a reason connected with maternity and the right to paid maternity leave and to parental leave following the birth or adoption of a child. »

<p>§2 to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;</p> <p>§3 to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment. »</p>			
<p>« Article 28 : The right of workers' representatives to protection in the undertaking and facilities to be accorded to them</p> <p>With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:</p> <p>a they enjoy</p>	<p>Article 151§1 TFUE (ex-article 136 TEC)</p> <p>« The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper</p>		

<p>effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;</p> <p>b they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.»</p>	<p>social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.»</p>		
<p>« Article 29 : The right to information and consultation in collective redundancy procedures</p> <p>With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to</p>	<p>Article 151§1 TFUE (ex-article 136 TEC)</p> <p>« The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to</p>		

<p>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, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.»</p>	<p>make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.»</p>		
<p>« Article 30 : The right to protection against poverty and social exclusion</p> <p>With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:</p> <p>a to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or</p>	<p>Article 151§1 TFUE (ex-article 136 TEC)</p> <p>« The Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, shall have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection,</p>		

<p>risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;</p> <p>b to review these measures with a view to their adaptation if necessary. »</p>	<p>dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.»</p> <p>Article 34 §3 CFR « 3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices. »</p>		
<p>« Article 31 The right to housing</p> <p>With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:</p> <p>§1 to promote access to housing of an adequate standard;</p> <p>§2 to prevent and reduce homelessness with a view to its gradual elimination;</p> <p>§3 to make the price of housing</p>	<p>Article 34 §3 CFR « 3. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices. »</p>		

accessible to those without adequate resources. »			
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Appendix 3

List of documents of the European Union Court of justice mentioning the European social Charter²⁵

²⁵List established from the search engine "InfoCuria-Case-law of the Court of Justice" <http://curia.europa.eu/juris/recherche.jsf?language=fr>. On 18.03.2014. Used Keywords: "Charte sociale européenne"; type of documents listed by the research engine: Order – Order (Information) - Judgment- Judgment (Summary) - Application – Request an Opinion- Opinion – View.

Case	Document	Date	Name of the parties
C-332/13	Order	16/01/2014	Weigl
T-108/11 P	Judgment	04/12/2013	ETF / Michel
T-107/11 P	Judgment	04/12/2013	ETF / Schuerings
T-410/13	Application (OJ)	18/10/2013	Bitiqi e.a. / Commission e.a.
C-579/12 RX II	Judgment	19/09/2013	Réexamen Commission / Strack
C-332/13	Application (OJ)	06/09/2013	Weigl
C-176/12	Opinion	18/07/2013	Association de médiation sociale
T-645/11 P	Judgment	18/06/2013	Heath / BCE
C-45/12	Judgment	13/06/2013	Hadj Ahmed
C-579/12 RX II	View	11/06/2013	Réexamen Commission / Strack
C-101/12	Opinion	29/05/2013	Schaible
F-63/08	Order	14/03/2013	Christoph e.a. / Commission
F-58/08	Order	21/02/2013	Avogadri e.a. / Commission
C-363/11	Opinion	20/09/2012	Epitropos tou Elegktikou Synedriou
F-4/11	Judgment	10/07/2012	AV / Commission
F-121/10	Judgment	29/09/2011	Heath / BCE
F-121/10	Judgment (Summary)	29/09/2011	Heath / BCE
T-325/09 P	Judgment	21/09/2011	Adjemian e.a. / Commission
T-325/09 P	Judgment (Summary)	21/09/2011	Adjemian e.a. / Commission
C-282/10	Opinion	08/09/2011	Dominguez
C-155/10	Opinion	16/06/2011	Williams e.a.
F-84/08	Judgment	28/10/2010	Cerafogli / BCE
C-249/09	Opinion	19/10/2010	Novo Nordisk
C-271/08	Judgment	15/07/2010	Commission / Allemagne
C-396/08	Judgment	10/06/2010	Lotti et Matteucci
C-395/08	Judgment	10/06/2010	Bruno et Pettini
C-45/09	Opinion	28/04/2010	Rosenbladt
C-271/08	Opinion	14/04/2010	Commission / Allemagne
F-57/08	Judgment	17/11/2009	Palazzo / Commission
F-60/08	Judgment	29/09/2009	O / Commission
F-69/07	Judgment *	29/09/2009	O / Commission
T-404/06 P	Judgment	08/09/2009	ETF / Landgren
C-323/08	Opinion	16/07/2009	Rodríguez Mayor e.a.
F-12/08	Judgment	09/06/2009	Nardin / Parlement
F-8/08	Judgment	04/06/2009	Renier / Commission
F-134/07	Judgment	04/06/2009	Adjemian e.a. /

			Commission
T-12/08 P	Judgment	06/05/2009	M / EMEA
T-12/08 P	Judgment	06/05/2009	M / EMEA
F-65/07	Judgment *	30/04/2009	Aayhan e.a. / Parlement
F-115/07	Judgment	28/04/2009	Balieu-Steinmetz et Noworyta / Parlement
T-57/99	Judgment	10/12/2008	Nardone / Commission
C-380/07	Opinion	04/12/2008	Karampousanos et Michopoulos
C-379/07	Opinion	04/12/2008	Giannoudi
C-378/07	Opinion	04/12/2008	Angelidaki e.a.
F-22/07	Judgment	04/09/2008	Lafili / Commission
C-268/06	Judgment	15/04/2008	Impact
C-361/07	Order (OJ)	29/03/2008	Polier
C-520/06	Opinion	24/01/2008	Stringer e.a.
C-350/06	Opinion	24/01/2008	Schultz-Hoff
C-361/07	Order (Information)	16/01/2008	Polier
C-361/07	Order	16/01/2008	Polier
C-361/07	Order (Information)	16/01/2008	Polier
C-268/06	Opinion	09/01/2008	Impact
F-115/07	Application (OJ)	22/12/2007	Balieu-Steinmetz et Noworyta / Parlement
C-341/05	Judgment	18/12/2007	Laval un Partneri
C-438/05	Judgment	11/12/2007	International Transport Workers' Federation et Finnish Seamen's Union
C-438/05	Judgment (Summary)	11/12/2007	International Transport Workers' Federation et Finnish Seamen's Union
C-361/07	Application (OJ)	10/11/2007	Polier
C-116/06	Judgment	20/09/2007	Kiiski
F-12/07	Order	11/09/2007	O'Connor / Commission
C-267/06	Opinion	06/09/2007	Maruko
C-341/05	Opinion	23/05/2007	Laval un Partneri
F-1/05	Judgment *	26/10/2006	Landgren / ETF
C-13/05	Judgment	11/07/2006	Chacón Navas
C-540/03	Judgment	27/06/2006	Parlement / Conseil
C-540/03	Opinion	08/09/2005	Parlement / Conseil
T-103/05	Application (OJ)	28/05/2005	P / Commission
C-181/03 P	Opinion	29/06/2004	Nardone / Commission
C-313/02	Opinion	18/05/2004	Wippel
C-220/02	Opinion	12/02/2004	Österreichischer Gewerkschaftsbund
C-459/99	Opinion	13/09/2001	MRAX
C-173/99	Opinion	08/02/2001	BECTU
C-49/98	Opinion	13/07/2000	Finalarte
C-11/99	Opinion	24/02/2000	Dietrich
C-285/98	Opinion	26/10/1999	Kreil

T-37/97	Judgment	25/03/1999	Forges de Clabecq / Commission
C-67/96	Opinion	28/01/1999	Albany
Opinion 2/94	Request for an Opinion	28/03/1996	Opinion pursuant to the Article 228 of the EC Treaty
T-12/93	Judgment	27/04/1995	CCE Vittel / Commission
T-96/92	Order	15/12/1992	CCE de la Société générale des grandes sources e.a. / Commission
T-45/90	Judgment	28/01/1992	Speybrouck / Parlement
C-236/87	Opinion	15/06/1988	Bergemann
C-24/86	Judgment	02/02/1988	Blaizot
C-222/84	Judgment	15/05/1986	Johnston
C-149/77	Judgment	15/06/1978	Defrenne
C-76/72	Opinion	04/04/1973	Scutari
C-12/66	Judgment	22/06/1967	Williame / Commission de la CEEA