



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITE EUROPEEN DES DROITS SOCIAUX**

October 2015

**THIRD REPORT**

**ON THE NON-ACCEPTED PROVISIONS  
OF THE EUROPEAN SOCIAL CHARTER**

**REPUBLIC OF CYPRUS**

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## I. SUMMARY

With respect to the procedure provided by Article 22 of the 1961 Charter – examination of non-accepted provisions - the Committee of Ministers in December 2002 decided that "states having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and had "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned" (decision of the Committee of Ministers of 11 December 2002).

Following this decision, it was agreed that the European Committee of Social Rights examines - in a meeting or by written procedure - the actual legal situation and the situation in practice in the countries concerned, with a view to securing a higher level of acceptance. This review would be done for the first time five years after the ratification of the revised European Social Charter, and every five years thereafter, to assess the situation on an ongoing basis and to encourage States to accept new provisions. Indeed, experience has shown that Governments tend to overlook that the selective acceptance of the provisions of the Charter should be a temporary phenomenon.

Cyprus ratified the European Social Charter on 7 March 1968 and the Revised European Social Charter on 27 September 2000, accepting 63 of its 98 paragraphs. In October 2011 Cyprus accepted to be bound by 9 additional provisions of the Revised Charter, bringing the total of accepted provisions to 72 of the 98 paragraphs.

The procedure on the non-accepted provisions was applied for the first time in the context of a meeting between the European Committee of Social Rights and representatives of various Cypriot ministries in Nicosia between 31 January and 1 February 2006.

With a view to carrying out the procedure for the third time in 2015 the Cypriot authorities were invited to provide written information on the non-accepted provisions.

In the report submitted on 17 June 2015 no information was provided on the following provisions: Articles 2§4, 3§4, 4§1, 4§2, 4§4, 7§5, 7§9, 13§4, 16, 17§2, 18§1, 18§2, 18§3, 21, 26§1, 26§2, 30, 31§1, 31§2 and 31§3. The Government indicates that neither the legislative framework nor the practice for these provisions have changed since the last time written information was provided and that therefore, Cyprus cannot contemplate ratification of them at the present moment.

In this respect, the Committee wishes to remind the Government that it has previously expressed the view that there were no major legal or practical obstacles to acceptance by Cyprus of Articles 4§2, 13§4, 16, 17§2, 21, 26§1, 26§2, 27§2, 30 and 31§3 (see the second report on non-accepted provisions in respect of Cyprus<sup>1</sup>).

Having examined the written information provided by the Government in respect of the remaining non-accepted provisions, the Committee maintains that from the point of view of the situation in law and in practice there are no obstacles to the immediate acceptance of Article 4§3, Article 8§4, and Article 23. As regards Article 17§1 and Article 27§1 the situation in Cyprus is not entirely clear and the Committee consequently would need additional information to make a proper assessment. Finally, with respect to Article 13§1, the situation does not appear to be fully in conformity with the Charter on the basis of the information at the Committee's disposal.

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<sup>1</sup> [http://www.coe.int/t/dghl/monitoring/socialcharter/non-acceptedprov/Cyprus2012\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/non-acceptedprov/Cyprus2012_en.pdf)

In view of the conclusions of this report, the Committee wishes to encourage Cyprus to consider accepting additional provisions of the Charter as soon as possible so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights. In this respect, the Committee wishes to recall that Cyprus is bound by EU law which to a large extent corresponds to the Charter requirements.

The Committee refers also to the Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter.

The next examination of the provisions not accepted by Cyprus will take place in 2020.

## **II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS**

The description of the situation in Cyprus set out for the different provisions below reproduces the written information provided by the Government with only minor editorial changes.

### **Article 4§3**

#### *Situation in Cyprus:*

The report under consideration emphasizes that the Department of Labour Relations is currently implementing the project "Actions for reducing the gender pay gap" with a 3 million budget. Being co-financed by the European Social Fund this project allows combating the root causes that create and sustain the gender pay gap. The measures undertaken involve various social groups such as Officers and Inspectors of equal pay and equal treatment in employment legislation, enterprises, social partners and the society in general.

The report further explains the different actions of the project, which include among others the improvement of the inspection mechanisms for equal pay legislation, the establishment of a Gender Equality Certification Body and the examination of the collective agreements for the identification of discriminatory provisions regarding pay.

#### *Opinion of the Committee:*

Article 4§3 elaborates on equality and non-discrimination in the payment of both men and women workers' remuneration that must be expressly embodied in law. This duty of Parties is also intrinsically connected to an obligation to prohibit any discrimination based on sex (Article E of the Charter).

The Committee recalls that the equal pay principle applies to the same work, to "mixed jobs" and to the work of the same value both in private and public sectors, moreover, applies between full-time and part-time workers, the latter being predominantly female. Thus, states should develop classification methods that enable them to compare the respective values of different jobs and carry out objective job appraisals in the various sectors of the economy, including those with a predominantly female labour force.

The Committee's case law under Article 4§3 is based on the assumption that in order for the situation to be in conformity with the Charter the principle of equality should cover all the elements of remuneration i.e. basic or minimum wages or salary plus all other benefits paid directly or indirectly in cash or kind by the employer to the worker by reason of the latter's employment. As far as setting wage levels is concerned, states are free to choose their own methods and can treat this as a matter to be decided by collective bargaining. If full equal pay cannot be achieved through collective bargaining, the state must intervene using legal

wage-fixing methods or any other appropriate means and ensure that violations of the principle of equal pay will be sanctioned. This obligation is supplemented by the right of appeal and protection against unfair dismissal with accompanying proportionate compensation.

In order to secure equal pay in practice, the Committee recalls that under Article 4§3 states must take, or encourage other bodies to take, positive measures to narrow the pay gap as much as possible, such as:

- encouraging the social partners to deal with equal pay in collective agreements;
- improving job classifications and job evaluation as means of reducing inequalities in pay;
- improving the quality and coverage of wage statistics,
- paying more attention to equal pay for women and men in national action plans for employment.

In the main, Cyprus has implemented these requirements into its national legislation and in practice it has undertaken specific measures to narrow the pay gap between men and women.

In conclusion, the Committee therefore maintains its view that there are no significant obstacles, legal or practical, to acceptance by Cyprus of Article 4§3.

#### **Article 8§4**

##### *Situation in Cyprus:*

Reference is made to the Maternity Protection (Safety and Health at Work) Regulations of 2002 (P.I. 255/2002) which harmonizes Cyprus legislation with Directive 92/85/EEC 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.

Regarding the employment in night work of pregnant women, women who have recently given birth and women nursing their infants, the above Regulations prescribe that the employer must relieve such workers from night work, for as long as this is deemed necessary for safeguarding the workers' safety and health and without adversely affecting any other rights and privileges of such workers. In order to enforce this provision, a pregnant woman, a woman who has recently given birth or a woman nursing her infants must obtain a medical certificate from a registered medical doctor (physician) attesting to the necessity of the worker abstaining from night work in order to safeguard her safety and health.

Furthermore, in cases where it is not technically feasible or practicable for such a worker to switch to daytime working, a pregnant woman, a woman who has recently given birth or a woman nursing her infant(s) may be excused from carrying out work for the duration needed to safeguard her safety and health without adversely affecting any other rights and privileges of such a worker. The employer must continue to provide the affected worker's salary for the duration of her absence from work. Additionally, employers may not oblige any pregnant or nursing worker to carry out activities liable to involve specific risk of exposure to agents, processes or working conditions of which a non-exhaustive list is included in Annex I of the above mentioned Directive 92/85/EEC.

Moreover, work activities of pregnant and breastfeeding workers which involve risk of exposure to those agents and working conditions mentioned in the Directive's Annex II (Sections A, B) are prohibited by the Regulations. Where the nature of the work involves any unavoidable risks, the employed woman must be transferred to another job. Where no

alternative job is available, the employed woman is entitled to be absent from work as long as necessary, without prejudice to her remuneration.

*Opinion of the Committee:*

The undertaking of States under this provision is to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants.

Article 8§4 aims to protect maternity thus the Committee underlines that national law must ensure a high level of protection against all known hazards to the health and safety of these groups of women. Article 8§4 does not require states to prohibit night work for pregnant women, women who have recently given birth and women nursing their infants, but obliges the Government to show that both local authorities and itself have taken practical steps to ensure that local action is effective. In this particular instance States should implement measures that:

- allow only limited exceptions to the rules on night work, which must be authorized only when special production needs make them necessary, having due regard to working conditions and the organization of work in the firm concerned and;
- lay down conditions for night work of women, e.g. prior authorization by the Labour Inspectorate (when applicable), prescribed working hours, breaks, rest days following periods of night work, the right to be transferred to daytime work in case of health problems linked to night work etc.

The Committee notes from the present report that Cyprus has enacted legislation to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants. On this basis, the Committee considers that there are no obstacles to acceptance by Cyprus of Article 8§4.

## **Article 13§1**

*Situation in Cyprus:*

The report states that elderly patients have the opportunity to visit primary health care services either at the out-patient surgeries or at the health care centres situated in the various districts, where different types of doctoral help are directly accessible.

The report further explains that based on national legislation, everybody who has a minimum contribution of 3 years at the social insurance scheme is entitled for health care benefits according to his/her income. Persons without adequate resources, unable to secure such resources either by their own efforts or from other sources, in particular by benefits under a social security scheme are evaluated under the special conditions for each case and adequate assistance is usually granted. This legislation is also applied to non-nationals.

*Opinion of the Committee:*

Under this provision the States Parties should effectively exercise the right to social and medical assistance, 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 scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition.

Article 13§1 provides for the right to benefits, for which individual need is the main eligibility criterion. However, this does not mean that specific benefits cannot be provided for the most vulnerable categories of the population.

The Committee recalls that the system of assistance must be universal in the sense that benefits must be payable to “any person” on the sole ground that he/she is in need. Thus, any restrictions linked to nationality are prohibited once the foreigner has been given permission to reside lawfully or to work regularly in the territory of a State Party. However, once the validity of the residence and/or work permit has expired, the Parties have no further obligation towards foreigners covered by the Charter, even if they are in a state of need.

As is apparent, the main criteria for the assessment of the right to social and medical assistance are those being:

- clearly defined in law, particularly provided by administrative circular and based on objective criteria;
- not subject to any condition other than need;
- supported by an effective right of appeal;
- enforceable.

In particular, the individual right to social assistance is genuine when:

- assistance is provided to all those in need;
- the level of benefits is adequate.

As to adequacy of social assistance, it must enable its recipients to live a decent life and to cover their basic needs. The entitlement to the right to social assistance arises when the person is unable to obtain resources “either by his own efforts or from other sources, in particular by benefits under a social security scheme”.

When assessing the level of assistance, the Committee has regard to basic benefits, any additional benefits and a threshold in the country, which it has set at 50% of the median equalized disposable income as calculated on the basis on the Eurostat at-risk-of-poverty threshold. The Committee considers that assistance is adequate where the monthly amount of assistance benefits – basic and/or additional – paid to a person living alone is not manifestly below the poverty threshold in the above sense. In the absence of this indicator, the Committee takes into account the national poverty threshold.

Although Article 13§1 does not explicitly specify the form of social assistance, it may take the form of benefits in cash or in kind. The Committee has observed that an income guarantee has been established in most Contracting Parties, but has not in theory made the introduction of an income guarantee system a condition of conformity with Article 13§1. However, the situation of all states which have not introduced a general income guarantee system has been judged not to conform on the ground that their system of assistance does not cover the whole population.

As regards, medical assistance everyone who lacks adequate resources should be able to receive such assistance free of charge. In this context, medical assistance includes free or subsidised health care or payments to enable persons to pay for the care required by their condition. The right to medical assistance should not be confined to emergency situations or limited in time. Furthermore, the seriousness of the illness cannot be a factor in refusing to grant medical assistance.

Although the situation in Cyprus has improved since 2010 still some provisions of the national law seem to preclude effective implementation of the right to social and medical assistance. Thus, only persons who have a minimum contribution period of 3 years at the social insurance scheme are entitled for health care benefits and the system of evaluation whereby uninsured are “usually granted” assistance could deprive needed persons of the right under Article 13§1 of the Charter.

Therefore, in the light of the current legal situation and practice as described in the report, the Committee is of the view that the situation at present may not fully comply with Article 13§1 of the Charter.

## **Article 17§1**

### *Situation in Cyprus:*

According to the report, the Government has undertaken specific measures to improve the situation of the institutions and services for the care of children, *inter alia*, through provision of state aid to non-governmental organizations and local authorities based on the 2013 European Regulation concerning *de minimis* aid.

Furthermore, reference is made to the amendments made to the Children’s Law in 2011 and 2014, particularly concerning the inclusion of registration requirements of child care services and qualifications of home child carers.

### *Opinion of the Committee:*

Article 17§1 guarantees the equal right of all children and young persons to 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. In this respect, the Committee considers that immediate assistance is essential for the persons under this provision, such as all persons below the age of 18 years, unless under the law applicable to the child majority is attained earlier, without prejudice to the other specific provisions provided by the Charter, particularly Article 7.

The Committee wishes to underline the necessary criteria for compliance with Article 17§1 such as: 1) assistance, education and training provided to all those in need and 2) sufficient and adequate level of this support. .

In a case of accessible and effective system of education there must be *inter alia* a functioning system of primary and secondary education; which includes an adequate number of schools fairly distributed geographically (in particular between rural and urban areas). The number of children enrolled in school should reach 100% of those of the relevant age. Class sizes and the teacher pupil ratio must be reasonable. There must be a mechanism to control the quality of teaching and the methods used. Education must be compulsory until the minimum age for admission to employment.



Furthermore, any restriction or limitation of parents' custodial rights should be based on objective criteria enshrined in domestic legislation, and should not go beyond what is necessary for the protection and best interest of the child and the rehabilitation of the family. Even more importantly, national law must provide a possibility to lodge an appeal against any limitations and establish an adequate supervision of the child welfare system and in particular of the institutions involved.

Although the Government has undertaken steps in order to implement the highest attainable standard of children's treatment, the Committee takes the view that the current legal situation and practice in Cyprus may raise problems of conformity with Article 17§1 of the Charter. The current legislative framework for the establishment or maintenance of institutions and services does not seem to define "sufficient and adequate" as this is outside of the scope of the regulatory framework as indicated by the Government itself in the report. Thus, the Committee needs additional information in this respect to properly assess the conformity of the situation in Cyprus with Article 17§1.

## **Article 23**

### *Situation in Cyprus:*

The report specifies that elderly people in need of complex care could stay in hospitals or in special care wards in retirement homes. Furthermore, the report explains that home nursing care is also provided to help people remain at home and live as independently as far as possible.

### *Opinion of the Committee:*

The Committee recalls that Article 23 of the Charter provides for the right of elderly persons to social protection. With a view to respect this right, States Parties should take the necessary actions to enable every elderly person to remain full member of the society, to lead independent live in his familiar surroundings for as long as he wish and is able by means of provision of housing services suited to his needs and state of health. The expression "full members" means that elderly persons must suffer no ostracism on account of their age. In this respect, non-discrimination legislation must exist in a range of areas such as in employment, access to goods, facilities and services, etc.

The Committee's case law under Article 23 is based on the assumption that there should be a national legal framework related to assisted decision making for the elderly guaranteeing their right to make decisions for themselves with assistance if needed unless it is shown that they are unable to make them. In this connection, the national legal framework must provide appropriate safeguards to prevent the arbitrary deprivation of autonomous decision making by elderly persons, also in case of reduced decision making capacity.

Moreover, Article 23 also requires states parties to take appropriate measures against elder abuse that could take various forms: physical, psychological or emotional, sexual, financial or simply reflect intentional or unintentional neglect. States must therefore take measures to evaluate the extent of the problem, to raise awareness on the need to eradicate elder abuse and neglect, and adopt legislative or other measures.

When assessing adequacy of resources of elderly persons under Article 23 the primary focus is on pensions. Pensions and other state benefits must be sufficient and available in order to allow elderly persons to lead a 'decent life' and play an active part in public, social and cultural life. These resources are then compared with the median equivalised income. In

addition, the needs of elderly persons must be taken into account in national or local housing policies in order to help elderly persons to remain in their own homes for as long as possible through the provision of sheltered/supported housing and assistance for the adaptation of homes.

Taking into account in particular the information provided by the Government concerning existing capabilities and the measures implemented to allow elderly persons to live as independently as possible, the Committee reaffirms its view that there are no major obstacles to acceptance by Cyprus of Article 23.

## **Article 27§1**

### *Situation in Cyprus:*

According to the Social Insurance Law credits for up to 156 weeks for child rearing are provided to women who withdraw from the labour market or interrupt their insured employment due to child care. The credits awarded for this period are equal to the weekly amount of the basic insurable earnings which for 2015 is €174.38. The report further refers to the fact that credited insurable earnings for each childhood are taken into consideration only for the payment of old age and invalidity pensions.

Moreover, according to the Social Insurance Law credits are provided for the period the woman is absent from work and receiving maternity allowance or the period the insured person is on parental leave.

The report states that the terms “dependent children” and “other dependants” are clearly defined under the Social Insurance Law and indicates the categories of persons who fall within these terms.

### *Opinion of the Committee:*

Under Article 27§1 the States Parties should ensure the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers.

In this respect, the States Parties should undertake appropriate measures in favour of workers with family responsibilities, particularly to take into account their needs in terms of conditions of employment, social security and implement measures concerning the length and organization of working time. The type of measures cannot be defined unilaterally by the employer but should be provided by a binding text (legislation or collective agreement).

Article 27§1 applies to men and women workers with family responsibilities in relation to their dependent children as well as in relation to other members of their immediate family who clearly need their care or support where such responsibilities restrict their possibilities of preparing for, entering, participating on or advancing in economic activity. This term ‘dependent children’ should be defined by the national legislation of the Party concerned. Furthermore, the Committee recalls that workers with family responsibilities should be allowed to work part-time or to return to full-time employment. It should be borne in mind that worker’s needs cannot be left to the mere employer’s goodwill but must be provided in some binding legal instrument. Periods of unemployment due to family responsibilities should be taken into account in the calculation of pension schemes.

While noting the information on credits for child rearing provided to women, the Committee needs information on whether such credits may also be granted to men and more generally it needs detailed and up-dated information on how non-discrimination of workers with family responsibilities is ensured in law and in practice.

## APPENDIX I

### — Cyprus and the European Social Charter —

#### **Ratifications**

Cyprus ratified the European Social Charter on 07/03/1968 and the Revised European Social Charter on 27/09/2000, accepting 63 of its 98 paragraphs. In October 2011 Cyprus accepted to be bound by 9 additional provisions of the Revised Charter, bringing the total of accepted provisions to 72 of the 98 paragraphs.

It accepted the Additional Protocol providing for a system of collective complaints on 06/08/1996, but has not yet made a declaration enabling national NGOs to submit collective complaints.

#### **Table of Accepted Provisions**

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22 <sup>1</sup>
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3										

Grey = accepted provisions

<sup>1</sup> Sub-paragraph b. accepted

#### **The Charter in domestic law**

Once published in the official Gazette, treaties concluded in accordance with the Constitution take precedence over any domestic law (including the Constitution), on condition that such treaties are applied by the other party (Arts 169 and 179 of the Constitution).

#### **Reports \***

Between 1970 and 2015, Cyprus submitted 21 reports on the application of the Charter and 11 on the application of the Revised Charter.

The 11th report, submitted on 22 May 2014, concerns the accepted provisions relating to Thematic Group 3 "Labour rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29).

The conclusions in respect of these provisions were published in January 2015.

The 12th report, which should have been submitted by 31 October 2014, should have concerned the accepted provisions relating to Thematic Group 4 "Children, family, migrants", namely:

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection of maternity (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of children and young persons to social, legal and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19),
- the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27),
- the right to housing (Article 31).

In addition, the report should concern the information required by the European Committee of Social Rights in the framework of Conclusions (2013) (Articles 3, 11, 12, 13, 14, 23 and 30 relating to Thematic group 2 "Health, social security and social protection"), in the event of non-conformity for lack of information.

Conclusions in respect of these provisions will be published in January 2016.

\* [Following a decision taken by the Committee of Ministers in 2006](#), the provisions of the Charter have been divided into four thematic groups.

## **Situation of Cyprus with respect to the application of the Revised Charter Examples of progress achieved in the application of social rights under the Social Charter**

### **Thematic Group 1 "Employment, training and equal opportunities"**

- ▶ Abolition of criminal sanctions and other coercive measures as "disciplinary occupational measures" for seafarers (Act of 11 June 1976 amending the Merchant Shipping Act)
- ▶ In 2003, incorporation of *acquis communautaire* on equal treatment of men and women in employment.
- ▶ Act 113(I)/1999 on Education and Training of Children with Special Needs and its 2001 implementing regulation place emphasis on the education of the large majority of children with special needs within mainstream schools. In its decision dated 31 October 2006, the Cypriot Equality Body criticised this law holding that it introduced indirect discrimination on the ground of special needs in the field of education and asked the Attorney General to revise the law.
- ▶ Law No. 127(I)/2002 guarantees that persons with disabilities are equally treated with other employees by their employer as regards the procedure for application for employment, recruitment, promotion, dismissal, compensation, training and other terms and conditions of employment. A 2004 amendment of the law also provides for the prohibition of any direct and indirect discrimination

### **Thematic Group 2 "Health, social security and social protection"**

- ▶ Regulation of health and safety in agriculture and extension of the Labour Inspectorate's purview to include this sector (Act No. 22/1982).
- ▶ Preventive and protective measures against asbestos (Act No. 47(1)/2000 and Reg. No. 104/2000) in conformity with *acquis communautaire*. The Protection against Radiation Act, No. 115(I)2002 transposes 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 Regulation No. 497/2002 transposes Council Directive 97/43/Euratom of 30 June 1997 on health protection of individuals against the dangers of ionising radiation in relation to medical exposure.
- ▶ Screening for breast cancer was introduced in two districts in September 2003 and February 2004 respectively. The programme will be introduced in the other two districts in 2005.
- ▶ Introduction of a proper system of social security (Act No. 106/1972); introduction of General Health Scheme in 2001, covering whole population
- ▶ An individual right to free counselling is guaranteed through the social welfare services with the aim of supporting individuals and families at times of crisis.

### **Thematic Group 3 "Labour rights"**

- ▶ Abolition of restrictions on trade unions' right to elect their own representatives freely (Act No. 381/1991 amending the Trade Unions Act); protection of union membership (Termination of Employment Acts 1967-1994 and the Trade Unions Acts 1965-1996)
- ▶ Safeguarding of police officers' right to bargain collectively (Section 52 §1 of the 1989 Police Act No. 27)
- ▶ Defence Regulations 79A and 79B, which authorised the requisitioning of workers and the prohibition of strikes in cases other than those permitted by the Revised Charter, were repealed by an Order of the Council of Ministers published in the Official Gazette on 22.09.2006.
- ▶ The Law No. 10(III)/2012, amending the Law which ratified the ILO Convention 135 regarding Workers Representatives, was adopted and contains provisions as regards workers representatives' rights to access the workplace. The amending Law clearly specifies that worker's representatives have the right to enjoy such facilities as may be necessary for the proper exercise of their functions, including access to the workplace with due respect for the rights of property and management, in order to apprise workers of the potential advantages of unionisation.

## **Thematic Group 4 “Children, families, migrants”**

- ▶ Regulation of the prohibition of dismissal during maternity leave (Maternity Protection Act No. 54/1987, as amended by Act No. 48 (I) of 1994); possibility of court-ordered reinstatement for unlawfully dismissed employees in firms with twenty or more employees (Act No. 61 (I) 1994)
- ▶ The period during which maternity allowance is paid has increased from 16 to 18 weeks (Social Insurance (Amendment) Law 110(I) of 2007)
- ▶ Prohibition of the employment of children under the age of 15 and compulsory education for all children up to the age of 15 (Protection of Young Persons at Work Act of 2001) Article 7§1 and 3 – prohibition of employment under the age of 15.
- ▶ Guarantees in the event of expulsion (Aliens and Immigration Act No. 54/1976). 2000 Regulations amending the Aliens and Immigration Act No. 54/1976 providing for the right to family reunion.
- ▶ Legal Aid Act No. 165(I) of 2002 provides for legal aid to persons with low income and for proceedings both before civil and criminal courts regarding cases in respect of violation of human rights and include family cases

## **Cases of non-conformity**

### **Thematic Group 1 “Employment, training and equal opportunities”**

- ▶ *Article 152 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

The duration of alternative military service amounting to almost three years is excessive and constitutes a disproportionate restriction on the right to earn a living freely entered upon.

(Conclusions 2012)

- ▶ *Article 10§5 - Right to vocational training-- Full use of facilities available*

It has not been established that the equal treatment of nationals of other States Parties as to fees and financial assistance is guaranteed.

(Conclusions 2012)

- ▶ *Article 15§2 - Right of persons with disabilities to independence, social integration and participation in the life of the community-- Employment of persons with disabilities*

It has not been established that persons with disabilities are guaranteed effective protection against discrimination in employment.

(Conclusions 2012)

- ▶ *Article 15§3 - Right of persons with disabilities to independence, social integration and participation in the life of the community- Integration and participation of persons with disabilities in the life of the community*

It has not been established that disabled people are effectively protected against discrimination in the fields of housing, transport and cultural and leisure activities.

(Conclusions 2012)

- ▶ *Article 20 – Right to equal opportunities and treatment in employment and occupation without sex discrimination*

The employment of women in underground mining is prohibited.

(Conclusions 2012)

- ▶ *Article 24 – Right to protection in case of dismissal*

1. Employees who have not been employed with their employer for a continuous period of 26 weeks are not entitled to protection against dismissal.

2. The categories of persons excluded from protection go beyond what is allowed under the Appendix to the Charter.

(Conclusions 2012)

## **Thematic Group 2 “Health, social security and social protection”**

▶ *Article 12§1 – Right to social security – existence of a social security system*

- The minimum level of unemployment benefit is manifestly inadequate.
- The minimum level of sickness benefit is manifestly inadequate.
- The minimum level of old age benefit is manifestly inadequate.
- The minimum level of maternity benefit is manifestly inadequate.

(Conclusions 2013)

▶ *Article 12§4 – Right to social security – Social security of persons moving between states*

- Equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties.
- The right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.

(Conclusions 2013)

## **Thematic Group 3 “Labour rights”**

▶ *Article 4§5 – Right to a fair remuneration – Limits to wage deductions*

The guarantees in place to prevent workers from waiving their right to limitation of deduction from wages are insufficient.

(Conclusions 2014)

▶ *Article 6§4 – Right to bargain collectively – Collective action*

The Trade Union Laws of 1955-1996 require that a decision to call a strike must be endorsed by the executive committee of a trade union.

(Conclusions 2014)

## **Thematic Group 4 “Children, families, migrants”**

▶ *Article 7§1 – Right of children and young persons to protection - Prohibition of employment under the age of 15*

The prohibition on the employment of under 15 year olds does not apply to children employed in occasional or short-term domestic work

(Conclusions 2011)

▶ *Article 7§3 – Right of children and young persons to protection - Prohibition of employment of young persons subject to compulsory education*

- The prohibition of employment of children subject to compulsory education does not apply to children employed in occasional or short-term domestic work.
- The duration of light work during school term for children aged 13-15 is excessive.

(Conclusions 2011)

▶ *Article 7§10 - Right of children and young persons to protection - - Special protection against physical and moral dangers*

It has not been established that children are effectively protected against the misuse of information technologies.

(Conclusions 2011)

▶ *Article 19§1 – Right of migrant workers and their families to protection and assistance - Assistance and information on migration*

It has not been established that appropriate steps against misleading propaganda relating to emigration and immigration have been taken.

(Conclusions 2011)

▶ *Article 19§4 – Right of migrant workers and their families to protection and assistance - Equality regarding employment, right to organise and accommodation*

It has not been established that migrant workers enjoy treatment which is not less favourable than that of nationals with respect to remuneration, employment and other working conditions; membership of trade unions, enjoyment of the benefits of collective bargaining; and access to housing.

(Conclusions 2011)

▶ *Article 19§6 (and 19§10) – Right of migrant workers and their families to protection and assistance - Family reunion*

The requirement for foreign workers wishing to be joined by their close relatives to have been residing lawfully in Cyprus for at least two years is excessive.

(Conclusions 2011)

▶ *Article 27§3 – Right of workers with family responsibilities to equal opportunity and treatment – Illegality of dismissal on the ground of family responsibilities*

Courts may only order reinstatement of an unlawfully dismissed employee in cases where the enterprise concerned has more than 20 employees.

(Conclusions 2011)

**The European Committee of Social Rights has been unable to assess compliance with the following rights and has invited the Cypriot Government to provide more information in the next report in respect of the following provisions:**

### **Thematic Group 1 “Employment, training and equal opportunities”**

- ▶ Article 1§3 – Conclusions 2012
- ▶ Article 1§4 – Conclusions 2012
- ▶ Article 10§1 – Conclusions 2012
- ▶ Article 10§3 – Conclusions 2012
- ▶ Article 15§1 – Conclusions 2012

### **Thematic Group 2 “Health, social security and social protection”**

- ▶ Article 3§1 – Conclusions 2013
- ▶ Article 11§§1 and 3 – Conclusions 2013
- ▶ Article 12§3 – Conclusions 2013

### **Thematic Group 3 “Labour rights”**

- ▶ Article 2§1 – Conclusions 2014
- ▶ Article 2§3 – Conclusions 2014
- ▶ Article 29 – Conclusions 2014

### **Thematic Group 4 “Children, families, migrants”**

- ▶ Article 8§1 – Conclusions 2011
- ▶ Article 19§§3, 8 and 11 – Conclusions 2011



## Collective Complaints and State of Procedure in Cyprus

### Collective complaints (under examination)

None

### Collective complaints (proceedings completed)

#### 1. Complaints inadmissible or where the Committee has found no violation

*Association for the Protection of All Children (APPROACH) Ltd v. Cyprus (No. 97/2013)*

The European Committee of Social Rights decided to strike out the case from the list of complaints on 12 May 2014.

#### 2. Complaints where the Committee has found a violation which has been remedied

None

#### 3. Complaints where the Committee has found a violation and where progress has been made but not yet examined by the Committee

None

#### 4. Complaints where the Committee has found a violation, which has not yet been remedied

None

## APPENDIX II

### Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter

*(Adopted by the Committee of Ministers on 12 October 2011 at the 1123rd meeting of the Ministers' Deputies)*

The Committee of Ministers of the Council of Europe,

Considering the European Social Charter opened for signature in Turin on 18 October 1961 and revised in Strasbourg on 3 May 1996 ("the Charter");

Reaffirming that all human rights are universal, indivisible and interdependent and interrelated;

Stressing its attachment to human dignity and the protection of all human rights;

Emphasizing that human rights must be enjoyed without discrimination;

Reiterating its determination to build cohesive societies by ensuring fair access to social rights, fighting exclusion and protecting vulnerable groups;

Underlining the particular relevance of social rights and their guarantee in times of economic difficulties, in particular for individuals belonging to vulnerable groups;

On the occasion of the 50th anniversary of the Charter,

1. Solemnly reaffirms the paramount role of the Charter in guaranteeing and promoting social rights on our continent;
2. Welcomes the great number of ratifications since the Second Summit of Heads of States and Governments where it was decided to promote and make full use of the Charter, and calls on all those member states that have not yet ratified the Revised European Social Charter to consider doing so;
3. Recognizes the contribution of the collective complaints mechanism in furthering the implementation of social rights, and calls on those members states not having done so to consider accepting the system of collective complaints;
4. Expresses its resolve to secure the effectiveness of the Social Charter through an appropriate and efficient reporting system and, where applicable, the collective complaints procedure;
5. Welcomes the numerous examples of measures taken by States Parties to implement and respect the Charter, and calls on governments to take account, in an appropriate manner, of all the various observations made in the conclusions of the European Committee of Social Rights and in the reports of the Governmental Committee;
6. Affirms its determination to support States Parties in bringing their domestic situation into conformity with the Charter and to ensure the expertise and independence of the European Committee of Social Rights;
7. Invites member states and the relevant bodies of the Council of Europe to increase their effort to raise awareness of the Charter at national level amongst legal practitioners, academics and social partners as well as to inform the public at large of their rights.