



European
Social
Charter

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

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**FOURTH REPORT
ON THE NON-ACCEPTED PROVISIONS OF
THE REVISED EUROPEAN SOCIAL CHARTER
CYPRUS**

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I. SUMMARY

1. Background

With respect to the procedure provided by Article 22 of the 1961 Charter – examination of non-accepted provisions – the Committee of Ministers decided in December 2002 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, five years after ratification of the Revised European Social Charter and every five years thereafter, the European Committee of Social Rights (ECSR) reviews the non-accepted provisions with the countries concerned, with a view to securing a higher level of acceptance, given that selective acceptance of Charter provisions was meant to be a temporary phenomenon. The aim of the Article 22 procedure is therefore to review the situation after five years and encourage acceptance of more provisions.

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.

Cyprus is not bound by 26 numbered paragraphs of the Revised Charter, namely Art.2§4, Art.3§4, Art.4§§1–4, Art.7§§5,9, Art.8§4, Art.13§§1 and 4, Art. 16, Art. 17§§1,2, Art.18§§1–3, Art.21, Art.23, Art.26§§1,2, Art.27§1, Art.30 and Art.31§§1–3.

2. Previous Examinations

The procedure on the non-accepted provisions was applied for the first time in 2006 and a meeting between the European Committee of Social Rights and representatives of various Cypriot ministries was held in Nicosia between 31 January and 1 February 2006. Following this meeting, in 2011 Cyprus ratified 9 additional provisions of the Revised Charter.

The previous, third examination of non-accepted provision was carried out in 2015 in the form of a written procedure based on the report submitted by the Cypriot authorities. Based on the analysis of the situation, the Committee concluded that there were no major legal or practical obstacles to acceptance by Cyprus of Articles 4§2, 4§3, 8§4, 13§4, 16, 17§2, 21, 23, 26§1, 26§2, 27§2, 30 and 31§3.

As regards the other non-accepted provisions, the Committee was of the view that the information provided was not sufficient to make a proper assessment of the situation in respect of Article 17§1 and Article 27§1. With respect to Article 13§1, the Committee considered that the situation did not appear to be fully in conformity with the Charter.

3. Current Examination

The current, fourth examination of non-accepted provisions of the Revised Charter in 2020 is again based on a written procedure.

Based on the report submitted by Cypriot authorities the situation in respect of the following non-accepted provisions of the Revised Charter is assessed:

- The right to just working conditions – elimination of risks in dangerous or unhealthy occupations (Art.2§4)

- The right to safe and healthy working conditions – promotion of occupational health services (Art.3§4)
- The right to (Art.4§§1–4)
- The right of children and young persons to protection – fair wage for young workers and apprentices (Art.7§5)
- The right of children and young persons to protection – regular medical control for employed persons under 18 years of age (Art.7§9)
- The right of employed women to protection of maternity – (Art.8§4)
- The right to social and medical assistance – adequate assistance (Art.13§1)
- The right to social and medical assistance – equal application of the right to nationals of other Parties lawfully residing in their territories (Art.13§4)
- The right of the family to social, legal and economic protection (Art.16)
- The right of children and young persons to social, legal and economic protection (Art.17§§1–2)
- The right to engage in a gainful occupation in the territory of other Parties – liberal application of existing regulations, simplification of formalities and liberalization of regulations (Art.18§§1–3)
- The right to information and consultation (Art.21)
- The right of elderly persons to social protection (Art.23)
- The right to dignity at work (Art.26§§1–2)
- The right of workers with family responsibilities to equal opportunities and equal treatment (Art.27§1)
- The right to protection against poverty and social exclusion (Art.30)
- The right to housing (Art.31§§1–3)

Having examined the information provided in the report, the Committee welcomes the readiness indicated by the Cypriot authorities to accept Articles 4§3 and 8§4 of the Revised Charter. Beyond these provisions, the Committee reiterates its earlier finding that from the point of view of the situation in law and in practice there are also no obstacles to the immediate acceptance of Art.26§1. Cyprus is invited to accept also Art.17§1(b) and Art.21, while some additional efforts towards effective implementation are needed.

Further updated information on the situation in law and in practice is needed for a proper assessment of Art.4§1, Art.4§2, Art.7§5, Art.13§4, Art.16, Art.17§2, Art.18§§1–3, Art.23, Art. 27§1, Art.30 and Art.31§§1–3.

As regards Art.2§4, Art.3§4, Art.4§4, Art.7§9, Art.13§1, Art.17§1(a) and (c), and Art.26§2, the current situation in Cyprus does not seem to be in full conformity with the requirements of the Revised Charter. The Government is encouraged to take efforts towards ensuring the respective rights in law and in practice.

The European Committee of Social Rights remains at the disposal of the authorities of Cyprus and encourages them to take the necessary steps towards acceptance of provisions of the Revised Charter.

The factsheet on the provisions of the Revised Charter accepted by Cyprus appears in Appendix I.

The next examination of the provisions not yet accepted by Cyprus will take place in 2025.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

The Cypriot authorities submitted a written report on the situation in respect of the non-accepted provisions of the Revised Charter on 30 June 2020. The report presents the situation in Cyprus on the non-accepted provisions of the Revised Charter, indicating also the current position of the Cypriot

authorities as regards possible acceptance of the concerned provisions. However, no substantive information was provided on Article 17§2 and Article 31§§1–3.

Article 2§4 (*Right to just working conditions – elimination of risks in dangerous or unhealthy occupations*)

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

➤ 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.

Situation in Cyprus

According to the report, Cyprus has a legal framework on Occupational Safety and Health (OSH), which is fully harmonised with the EU *acquis* in this field. The EU Framework Directive 89/391/EEC and related Directives are implemented by the Cypriot Safety and Health at Work Laws and extensive secondary legislation. Under this legislation, the duty of every employer in Cyprus is to ensure the safety, health and welfare at work of all of his employed persons. Suitable preventive and protective measures must be put in place by every employer, in accordance with the prescribed structure for the control of hazards, based on risk assessment. According to the above legislation, the employer may be excused from his legal duties only in the cases of occurrences arising from unusual and unforeseen circumstances when despite all due care the consequences could not have been avoided by the employer.

The Cypriot authorities express the view that Article 2§4 of the Charter deviates from the EU legal framework on OSH and cannot be adopted by the Republic of Cyprus. In their view, alternative measures such as reduction in working hours or extra benefits such as additional paid holidays are not acceptable as substitutes to specific, practical and continuous preventive and protective measures tailored to each and every workplace, in line with the EU Directives.

The report also refers to Article 9(2) of the Organisation of Working Time Law, which secures that night workers whose night work entails specific risks or significant physical or mental stress shall not work at night for more than eight hours in any 24-hour period. According to article 9(3), the definition of night work which entails specific risks or significant physical or mental stress, where this is not determined by legislation or collective agreement, shall be agreed by consultation between the employer and employee representatives, in accordance with the provisions of the Law and the written assessment of risks. However, the respective measure is limited to night work with specific risks.

The Cypriot authorities conclude that Article 2§4 cannot be accepted at this time.

Opinion of the European Committee of Social Rights

Article 2§4 of the Revised Charter requires States Parties to eliminate risks in inherently dangerous or unhealthy occupations as well as to ensure some form of compensation for workers exposed to risks that cannot be eliminated or sufficiently reduced in spite of the effective application of preventive measures. Article 2§4 thus entails two obligations. Firstly, States Parties are required to take the necessary measures to eliminate risks. Secondly, they are required to provide for compensation in the event of residual risks. This approach is consistent with Article 3 (right to safe and healthy working conditions) and Article 11 (right to protection of health) of the Charter. It is important to stress that compensatory measures shall not be regarded as substitutes for preventive and protective measures. In this regard, obligations arising from Article 2§4 do not deviate from the EU legal framework on occupational safety and health, but complement them.

When applying measures in response to residual risks, States Parties enjoy a certain margin of discretion to determine the activities and risks concerned. They must at least consider sectors and occupations that are manifestly dangerous or unhealthy, such as mining, quarrying, steel making and shipbuilding and occupations exposing employees to ionising radiation, extreme temperatures and noise. The aim of the measures must be to offer those concerned sufficient and regular time to recover from the associated stress and fatigue, and thus maintain their vigilance.

Article 2§4 refers to two forms of compensation: reduced working hours and additional paid holidays. In view of the emphasis on health and safety objectives, however, other approaches to reducing exposure to risks may also ensure conformity with the Revised Charter. They need to be assessed on a case by case basis. On the other hand, financial compensation cannot be considered a relevant and appropriate measure to achieve the aims of Article 2§4, nor is early retirement or the provision of food supplements. Measures intended to compensate workers for exposure to residual risks must be regulated at the central level and must not be left to the agreements between the social partners.

In Cyprus, the legal provisions for reducing working time or otherwise reducing exposure, where risks cannot be fully eliminated, are limited to night work which entails specific risks or significant physical or mental stress. As no provision is made to reduce exposure for other situations of residual risks, the Committee considers that the situation in Cyprus poses a problem of conformity with Article 2§4. Additional measures should be taken by the authorities to bring the situation in law and in practice in conformity with Article 2§4.

Article 3§4 (*Right to safe and healthy working conditions – promotion of occupational health services*)

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 workers' organisations:

➤ to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions.

Situation in Cyprus

In Cyprus, the Department of Labour Inspection takes actions to promote the development of occupational health services for employees, in accordance with the action plan for the establishment and operation of a health surveillance system of employed persons. According to Safety and Health at Work (Health Surveillance) Regulations of 2017, a gradual development of occupational health services is planned and has started for certain occupations and working activities. Three Ministerial Ordinances have been issued stipulating medical examination for workers with asbestos, workers in certain activities at ports and for climbers at mast and poles. These ordinances are implemented with the provision of services by medical doctors specialising in occupational medicine to employers performing respective activities. It is estimated that more than 30 companies in Cyprus have contracted occupational physician for the provision of occupational health services to employees. The Department of Labour Inspection is planning to prepare more Ministerial Ordinances in the future to expand the coverage of occupational health services to more professions and working activities according to the needs and the conditions of the working environment in Cyprus.

According to the report, the Cypriot authorities consider that they can't currently accept Article 3§4, but will re-examine the situation in the future once the occupational health services surveillance system is completed.

Opinion of the European Committee of Social Rights

Article 3§4 requires to promote, in consultation with employers' and workers' organisations, the progressive development of occupational health services. Such services shall be accessible to all workers, in all branches of economic activity and for all enterprises. If those services are not

established within all enterprises, public authorities must develop a strategy, in consultation with employers' and workers' organisations, for that purpose.

Under Article 3§4 States Parties must take measures that allow to achieve the objectives within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources. Any strategy to promote the progressive development of occupational health services must include the full territory, cover nationals of other States Parties, and not only some branches of activity, major enterprises or especially severe risks, but all types of workers.

Relevant indicators to assess the conformity with Article 3§4 are the number of occupational physicians, the number of enterprises providing occupational health services, as well as the number of workers supervised by those services compared to the total workforce, and compared to the previous reference period. The ratification of ILO Occupational Health Services Convention No. 161 (1985) and the transposition of the EU Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work are also relevant. The impact of the strategy to promote the progressive development of occupational health services in small and medium-sized enterprises shall be assessed.

Occupational health services have essentially preventive and advisory functions, which are specialised in occupational medicine, beyond safety at work. They contribute to conducting workplace-related risk assessment and prevention, to worker health supervision, to training in matters of occupational safety and health, as well as to assessing working conditions impact on worker health. They must be trained, endowed and staffed to identify, measure and prevent work-related stress, aggression and violence.

The Committee notes that Cyprus has transposed the EU Directive 89/391/EEC, but has not ratified the ILO Occupational Health Services Convention No. 161. There is an action plan for the establishment and operation of a health surveillance system, but it is not yet fully implemented.

The Committee encourages the authorities to continue their efforts towards completion of the occupational health surveillance system, to monitor the situation in practice and collect data on indicators related to occupational health services, such as the number of workers benefitting from occupational health services, the conditions of access to these services, the number of occupational physicians and occupational health service providers.

Article 4 (Right to fair remuneration)

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

Article 4§1:

➤ to recognise the right of workers to remuneration such as will give them and their families a decent standard of living.

Situation in Cyprus

According to the report, the existing Minimum Wage Order covers only specific professions with low union representation, such as salespersons, clerks, nursing assistants, assistant baby and childminders, child-care workers, personal care workers, security guards and cleaners in business/corporate premises. There is also a sectoral collective agreement in the hotel industry, which provides minimum wage for 13 occupations in the industry. This provision was legislated by means of a special Minimum Wage Order issued by the Minister of Labour, Welfare and Social Insurance.

The Ministry of Labour, Welfare and Social Insurance continues preparatory efforts towards introducing a statutory minimum wage when the unemployment rate will be below 5%. In this regard, the Ministry has conducted studies in cooperation with the European Commission and the International Labour Office, and social dialogue with the social partners is expected to begin soon.

The Ministry's goal is to ensure a minimum level of decent living wage and to provide equal competition among businesses in the context of minimum wages.

The Cypriot authorities consider that they can't currently accept Article 4§1, but will re-examine the situation when the conditions for the introduction of the statutory minimum wage are met.

Opinion of the European Committee of Social Rights

Article 4§1 guarantees the right to a fair remuneration such as to ensure a decent standard of living. It applies to all workers, including to civil servants and contractual staff in the state, regional and local public sectors, to branches or jobs not covered by collective agreement, to atypical jobs and to special regimes or statuses.

To be considered fair within the meaning of Article 4§1, the minimum wage paid in the labour market must not fall below 60% of the net average national wage. The assessment is based on net amounts, i.e. after deduction of taxes and social security contributions.

When a statutory national minimum wage exists, its net value for a full-time worker is used as a basis for comparison with the net average full-time wage. Otherwise regard is had to the lowest wage determined by collective agreement or the lowest wage actually paid.

If the lowest wage in a given State Party does not satisfy the 60% threshold, but does not fall very far below (in practice between 50% and 60%), the Government will be invited to provide detailed evidence that the lowest wage is sufficient to give the worker a decent living standard even if it is below the established threshold. In particular, consideration will be given to the costs of having health care, education, transport, etc.

Introduction of a statutory minimum wage as such is not a formal prerequisite for accepting Article 4§1. However, as no information is given on the lowest wages actually paid, the Committee cannot assess the situation in practice. The Cypriot authorities are encouraged to continue their efforts towards ensuring a decent living wage.

Article 4§2:

➤ to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases.

Situation in Cyprus

The current legislation in Cyprus stipulates compensation of overtime work for employees of shops, hotels and in the catering industry. For other professions, there is no respective legislation, but almost all collective agreements regulate a minimum rate of remuneration for overtime work.

The Cypriot authorities express the view that regulating by law an issue that is subject to collective bargaining, would go against the nature of the voluntary system of industrial relations in Cyprus. They conclude that Article 4§2 cannot be accepted at this time.

Opinion of the European Committee of Social Rights

Article 4§2 is linked to Article 2§1 (a provision accepted by Cyprus), which guarantees the right to reasonable daily and weekly working hours. Overtime is work performed in addition to normal working hours.

Under Article 4§2, work performed outside normal working hours should be paid at a rate higher than the normal wage because it requires an increased effort on the part of the worker. This increase must apply in all cases. In case of a flat-rate payment, the level of flat-rate or its effects on their purchasing

power is not considered; the issue is whether those concerned receive remuneration for overtime work at a higher rate than their normal pay.

Granting leave to compensate for overtime (instead of granting an increased remuneration) is in conformity with Article 4§2, on condition that this leave is longer than the overtime worked. However, it is not sufficient to offer employees leave of equal length to the number of overtime hours worked. Mixed systems for compensating overtime, where an employee is paid the normal rate for the overtime worked but also receives time in lieu, are not contrary to Article 4§2. The right of workers to an increased rate of remuneration for overtime work may have exceptions in certain specific cases, such as senior official of state employees, and management executives of the private sector.

Article 4§2 may be implemented through collective agreements, statutory regulations or other means appropriate to national conditions so long as it applies to all employees. On the other hand, any restrictions to an increased remuneration for overtime work shall be provided by law, pursue a legitimate aim and be proportionate to that aim.

In Cyprus, the statutory compensation for overtime work covers only employees of shops, hotels and in the catering industry, while the applicable rates of compensation conform with the requirements of Article 4§2. To assess, whether the provisions of collective agreements on the rates of remuneration for overtime work comply with the requirements of Article 4§2, further information on respective provisions of such agreements is needed. It also needs to be established what share of employees such collective agreements cover.

Article 4§3:

➤ to recognise the right of men and women workers to equal pay for work of equal value.

Situation in Cyprus

In Cyprus, the Law on Equal Pay between Men and Women for the Same Work or for Work to which Equal Value is Attributed (No 177(1)) and the Law on the Protection of Wages (No 35(1)), are in force respectively from 2003 and 2007. This legislation contains detailed provisions, recognizing and guaranteeing the right of both men and women to equal pay for work of equal value. The Ombudsman is granted the authority to investigate relevant complaints, the EU Directive 2006/54/EC has been harmonised and the possibility of comparison of jobs has been extended outside the company directly concerned in unequal pay claims.

The applicable legislation clearly defines the notion of “pay”, and covers all employees. Discrimination on the grounds of sex is prohibited with regard to all aspects and conditions of remuneration for the same work or for work of an equal value. Social partners are obliged to engage in social dialogue with a view to fostering equal pay between men and women, while employers are obliged to promote the equal pay principle in a planned and systematic way in the workplace. No person shall be dismissed or subjected to less favourable treatment by his/her employer for having submitted a complaint or contributed to the prosecution of an offender. There is also provision for penalties and fines.

The Law on Equal Pay between Men and Women also defines the powers and duties of Inspectors appointed by the Minister of Labour, Welfare and Social Insurance, who may either carry out ex officio investigations or examine complaints for infringement. The law also sets out the comparison criteria for job evaluation, and provides for the reversal of the burden of proof, in both judicial and extra-judicial proceedings. In any judicial proceedings (except for criminal proceedings) and provided that the plaintiff who alleges to have been prejudiced by the contravention of the provisions of the law, presents real facts which substantiate the contravention, the Court shall oblige his adverse party to prove that there has been no contravention of the law. As regards the extra-judicial protection, the law provides that when a complaint is submitted to the Ombudsman, and given that the complainant presents real facts which substantiate the contravention, the Ombudsman shall oblige the person

against whom the complaint is directed to prove that there has been no contravention of the law. The law also provides information on the competent Courts, and stipulates that the Labor Disputes Tribunal grants just and reasonable compensation, which shall cover at least all the positive damage, compensation for any non-pecuniary damage, plus legal interest.

The Ministry of Labour, Welfare and Social Insurance has undertaken various measures, including studies, projects to strengthen the inspection mechanism for enforcement, training programmes, consultations with social partners, reviewing of collective agreements etc. to address the causes and tackle the phenomenon of gender pay gap. Such measures have contributed to the significant decrease of the gender pay gap.

In total, about 1,800 inspections and investigations have been carried out with the aim to enhance the effective enforcement of the equal pay legislation.

The National Certification Body for promoting gender equality (established in 2014), has awarded “Equality Employer” certifications to 54 organisations and enterprises, which have implemented policies and measures to guarantee equal pay amongst employees.

The Ministry of Labour, Welfare and Social Insurance is organising annual Equal Pay Day events to raise public awareness on employees’ rights issues. In this context, radio and web campaigns take place, while the labour inspectorate visits a number of organisations in order to disseminate information and provide guidance and clarifications on the relevant legislation.

The Cypriot authorities indicate that they consider accepting Article 4§3.

Opinion of the European Committee of Social Rights

Article 4§3 guarantees the right to equal pay without discrimination on grounds of sex. Women and men are entitled to equal pay for work of equal value. The equal pay principle applies to the same work, but also to different works of the same value. The principle of equality should cover all the elements of pay, that is 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.

The right of women and men to equal pay for work of equal value must be expressly provided for in legislation. States Parties are free to choose their own methods of setting wage levels and this may be decided by collective bargaining. Domestic law must ensure that violations of the principle of equal pay will be sanctioned and lay down the general rules applying to labour and management when they are negotiating wages. If full equal pay cannot be achieved through collective bargaining, the state must intervene using legal wage-fixing methods or other appropriate means.

Domestic law must provide for appropriate and effective remedies in the event of alleged wage discrimination. Workers who claim that they have suffered discrimination must be able to take their case to court. The law should provide for a shift of the burden of proof in favour of the plaintiff in discrimination cases. Anyone who suffers wage discrimination on grounds of sex must be entitled to adequate compensation that is sufficient to compensate the damage suffered by the victim and act as a deterrent to the offender. In cases of unequal pay, any compensation must, as a minimum, cover the difference in pay.

The Committee notes that according to the Eurostat data, the unadjusted gender pay gap in Cyprus was 10.4% in 2018, which was below the EU average (14.1%). Moreover, the gender pay gap in Cyprus has steadily declined over the last decade, from the level of 22% in 2007. The Committee observes that from the point of view of the situation in law and in practice there are no obstacles to the immediate acceptance by Cyprus of Article 4§3. The Committee welcomes the readiness of the Cypriot authorities to accept this provision.

Article 4§4:

➤ to recognise the right of all workers to a reasonable period of notice for termination of employment.

Situation in Cyprus

The Law on Termination of Employment stipulates the minimum periods of notice, which the employer who intends to terminate the employment relationship with his/her employee should give. Notice periods should be given in writing. There is no notice period for employees with the period of continuous employment less than 26 weeks (6 months). For employees with periods of continuous employment at least 26 weeks, the length of the notice period depends on the length of the employment period:

Period of continuous employment	Minimum period of notice
26–51 weeks (6 months–1 year)	1 week
52–103 weeks (1–2 years)	2 weeks
104–155 weeks (2–3 years)	4 weeks
156–207 weeks (3–4 years)	5 weeks
208–259 weeks (4–5 years)	6 weeks
260–311 weeks (5–6 years)	7 weeks
312 and over (6+ years)	8 weeks

A longer period of notice may be provided by collective agreements.

The Cypriot authorities indicate that they consider accepting Article 4§4.

Opinion of the European Committee of Social Rights

The main purpose of Article 4§4 providing for a reasonable notice period is to allow the person concerned a certain time to look for other work before his or her current employment ends, while he or she is still receiving wages.

The Committee assesses the situations on a case by case basis. Receipt of wages *in lieu* of notice is admitted, provided that the sum paid is equivalent to that which the worker would have earned during the corresponding period of notice. Periods of notice and/or compensation in lieu thereof may, however, not be left at the sole disposal of the parties to the employment contract.

The major criterion for the assessment of reasonableness is length of service. The Committee has concluded that the following periods of notice and/or compensation in lieu thereof were not in conformity to the Charter:

- five days' notice after less than three months of service;
- one week's notice after less than six months of service;
- two weeks' notice after more than six months of service;
- less than one month's notice after one year of service;
- eight weeks' notice after at least ten years of service;
- twelve weeks' notice for workers dismissed for long-term working incapacity who have five or more years of service.

Article 4§4 applies to all cases of termination of employment, including dismissals, termination due to bankruptcy, invalidity or death of the employer who is a natural person.

The Committee points out that the statutory minimum notice periods in Cyprus are short and the absence of a notice period for employees with length of service less than 6 months would not be compatible with the requirements of Article 4§4. The Committee welcomes the readiness of the Cypriot authorities to accept Article 4§4 and encourages to take additional measures to bring the situation in law and in practice in conformity with the requirement of Article 4§4 in respect of a notice period.

Article 7 (*Right of children and young persons to protection*)

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake:

Article 7§5

➤ to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances.

Situation in Cyprus

The report indicates that the Minimum Wage Orders for specific professions (as described under Article 4§1) apply to all workers including young workers. This would also be the case regarding the statutory minimum wage, which is currently in the process of being introduced.

The Cypriot authorities consider that they can't accept Article 7§5 at this time, but will re-examine the situation when the conditions for the introduction of the statutory minimum wage are met.

Opinion of the European Committee of Social Rights

Under Article 7§5, domestic law must provide for the right of young workers to a fair wage and of apprentices appropriate allowances. This right may result from statutory law, collective agreements or other means.

When assessing compliance with Article 7§5, the Committee applies a similar methodology as adopted under Article 4§1, taking into consideration net wages (after deduction of taxes and social security contributions). The young worker's wage may be less than the adult starting wage, but any difference must be reasonable. For 15–16 year-olds, a wage of 30% lower than the adult starting wage is acceptable. For 16–18 year-olds, the difference may not exceed 20%.

As no information is given on the lowest wages actually paid to young workers and apprentices, the Committee cannot assess the situation in practice. The Cypriot authorities are encouraged to continue their efforts towards ensuring a decent living wage for young workers and apprentices.

Article 7§9

➤ to provide that persons under 18 years of age employed in occupations prescribed by national laws or regulations shall be subject to regular medical control.

Situation in Cyprus

The Safety and Health at Work (Protection of Young People) Regulations of 2012 (amended in 2015) and the Management of Safety and Health Issues Regulations of 2002 contain some legal provisions related to medical control of young persons at work. These regulations also prescribe mandatory specific written risk assessments for young persons at work. The Department of Labour Inspection enforces these regulations, but they do not currently have data on the medical control of young persons at work. In accordance with the specific Safety and Health at Work (Health Surveillance) Regulations of 2017, medical examinations for the surveillance of workers' health are enforced

gradually and currently apply only for a few defined occupations and working activities. For the time being, the health surveillance regulations do not extend to the work of young persons, but it will be reviewed in the future for inclusion.

The Cypriot authorities will re-examine the situation in the future once the relevant data on the medical surveillance of young persons at work is available.

Opinion of the European Committee of Social Rights

Under Article 7§9, domestic law must provide for compulsory regular medical check-ups for persons under 18 year of age who are employed in occupations specified by domestic laws or regulations. These check-ups must be adapted to the specific situation of young workers and the particular risks to which they are exposed. They may be carried out by the occupational health services, if these services have the specific training to do so.

The obligation entails a full medical examination on recruitment and regular check-ups thereafter. The medical check-ups foreseen by Article 7§9 should take into account the skills and risks of the work envisaged. The intervals between check-ups must not be too long. In this regard, an interval of two years has been considered to be too long.

It appears from the information given in the report that regular medical check-ups for persons under 18 year of age are currently not prescribed, which poses a problem of conformity with Article 7§9. The Cypriot authorities are encouraged to continue their efforts towards ensuring the right to regular medical control for young workers.

Article 8§4 (*Right of employed women to protection of maternity – night work*)

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake:

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

Situation in Cyprus

The Protection of Maternity (Safety and Health at Work) Regulations of 2002 (amended in 2015) transcribe the provisions of the EU Directive 92/85/EEC (as amended) 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. The regulations prescribe that employers shall not allow such workers to perform night work during their pregnancy and for a period following childbirth, subject to submission of a medical certificate stating that this is necessary for the safety or health of the worker concerned.

The Cypriot authorities consider accepting Article 8§4.

Opinion of the European Committee of Social Rights

Article 8§4 requires States Parties to regulate night work for pregnant women, women who have recently given birth and women nursing their infants, in order to limit the adverse effects on the health of the woman.

The regulations must:

– only authorise night work where necessary, having due regard to working conditions and the organisation of work in the firm concerned;

– lay down conditions for night work of pregnant women, e.g. prior authorisation 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 welcomes the readiness of the Cypriot authorities to accept Article 8§4 and reiterates its earlier finding that there are no obstacles to the immediate acceptance of this provision by Cyprus.

Article 13 (*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:

Article 13§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 scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition.

Article 13§4:

With a view to ensuring the effective exercise of the right to social and medical assistance,

➤ 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 Contracting Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11th December 1953.

Situation in Cyprus

The report provides information on the situation as regards Article 13 without distinguishing between Art.13§1 and Art.13§4.

The report indicates that based on the provisions of the EC Regulation No 883/2004 on the coordination of social security systems, the General Healthcare System (GHS) of Cyprus assures access to medically necessary, state-provided healthcare during a temporary stay in all EU countries, Iceland, Liechtenstein, Norway and Switzerland, under the same conditions and at the same cost (free in some countries) as people insured in respective countries.

The right to health care in Cyprus within the GHS is independent from the payment of contributions. Beneficiaries without an income (unemployed, children, students, soldiers and others) have equal access to healthcare services. Specifically, GHS covers all citizens who are permanent residents in the areas controlled by the Republic of Cyprus and the members of their families in accordance with the provisions of the national legislation.

The following categories of persons and the members of their families are among the beneficiaries of the GHS:

- EU citizens and the ordinary residents of the areas controlled by the Republic of Cyprus who are working or have a permanent residence permit in the areas controlled by the Republic of Cyprus, as well as their dependants, in accordance with the provisions of the Law on the Right of the EU Citizens and their Family Members to Move and Reside Freely within the Territory of the Republic of Cyprus;
- citizens of non-EU countries (third country nationals) and ordinary residents of the areas controlled by the Republic of Cyprus who have a permanent residence permit in the areas controlled by the Republic of Cyprus or have the right to equal treatment in social insurance, as well as their dependants, in accordance with the Aliens and Immigration Law;

- refugees and persons with the supplementary protection status who are ordinary residents of the areas controlled by the Republic of Cyprus and have been granted refugee or subsidiary protection status, as well as their dependants, in accordance with the Refugees Law.

From 1 June 2019 the GHS covered the outpatient care (incl. personal doctors, outpatient specialists, drugs and laboratories), and extended from 1 June 2020 (2nd phase) to the inpatient care, emergency care, ambulance services, services by nurses, midwives, allied health professionals, palliative care, medical rehabilitation, preventive dental care and home visits. In the GHS the beneficiaries have a freedom of choice in healthcare treatment, universal coverage and equal access to healthcare services.

The GHS covers all medical care needs of beneficiaries including chronic, rare and serious conditions. Access to personal doctors (as from 1 June 2019) and inpatient healthcare (as from 1 June 2020) is generally free, with beneficiaries paying small amounts of co-payments upon receiving services by outpatient specialists, laboratories, pharmacies, nurses, midwives, allied health professionals, and A&Es such as for example €1 per pharmaceutical product, €1 per laboratory test, €6 per visit to a specialist doctor. There is a ceiling on the annual co-payment per person.

The Guaranteed Minimum Income may be granted to Cypriot and European citizens who over the immediately preceding period prior to their application have completed a legal and continuous stay in Cyprus for at least five (5) years and continue to stay legally and continuously in Cyprus. The GMI may also be granted to third-country nationals who have a long-term residence in Cyprus (in accordance with the regulations and provisions of the applicable law) or have a refugee status (in accordance with the regulations and provisions of the legislation and excluding asylum seekers), or victims of trafficking or exploitation of persons (in accordance with the regulations and provisions of the applicable legislation).

The Social Welfare Services may provide assistance to people who are in extremely urgent or/and emergency need due to personal circumstances or in an unexpected or urgent situation in accordance to Article 11 of the Guaranteed Minimum Income Legislation and any other national and European legislation for nationals of the other Parties who do not reside lawfully.

The Cypriot authorities consider that they can't accept Article 13§4 at this time.

Opinion of the European Committee of Social Rights

Under Article 13 the States Parties should 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. This does not preclude targeting of some specific benefits for the most vulnerable categories of the population as long as persons who do not fall into these categories are also entitled to appropriate assistance.

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. 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. A condition in respect of length of residence in the country or part of its territory (as distinct from a condition in respect of stay or presence) or excluding from social assistance people dismissed for serious misconduct is not in keeping with Article 13§1.

As to adequacy of social assistance, it must enable its recipients to live a decent life and to cover their basic needs. To assess the level of assistance, basic benefits, additional benefits and the poverty

threshold in the country are taken into account, which is set at 50% of the median equivalised disposable income and calculated on the basis on the Eurostat at-risk-of-poverty threshold. For the assistance to be appropriate, the monthly amount of assistance benefits – basic and/or additional – paid to a person living alone shall not be manifestly below the poverty threshold.

As regards the medical assistance, everyone who lacks adequate resources must be able to obtain “in the event of sickness the care necessitated by his condition” 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.

The personal and material scope of Article 13§4 are defined by the text of Article 13§4 itself and by the Appendix of the Charter.

Article 13§4 grants non-resident foreign nationals entitlement to emergency social and medical assistance. The personal scope of Article 13§4 differs from that of other Charter provisions. In accordance with the Appendix, Article 13§4 refers to “nationals of other Contracting Parties lawfully within their territories”. Accordingly, the beneficiaries of this right to emergency social and medical assistance are foreign nationals who are lawfully present in the country but do not have resident status. No condition of length of presence can be set on the right to emergency assistance.

States Parties are required to provide non-resident foreigners without resources emergency social and medical assistance (accommodation, food, emergency care and clothing) to cope with an urgent and serious state of need. The States shall not interpret too narrowly the “urgency” and “seriousness” criteria. At the same time, the States are not required to apply the guaranteed income arrangements.

The provision of free emergency medical care must be based on the individual’s particular state of health. Migrant minors in a country are entitled to receive health care extending beyond urgent medical assistance and including primary and secondary care, as well as psychological assistance, even if they are in an irregular situation.

As regards the emergency social assistance, there shall be a right to appeal to an independent body and a proper administration of shelter distribution. This right must be effective in practice.

The reference to the 1953 European Convention on Social and Medical Assistance does not affect the personal and material scope of Art.13§4. The only link between Art.13§4 and the 1953 Convention concerns the conditions under which States Parties can repatriate non-resident foreigners without resources on the ground that they are in need of assistance, namely that the persons are in a fit state of health to be transported (Article 7.a.ii of the 1953 Convention). This option may only be applied in the greatest moderation and where there is no objection on humanitarian grounds. States that are bound by Article 13§4 must also comply with the 1953 Convention provisions as regards repatriation of nationals of States Parties that have not ratified the Convention.

The report does not contain information on the applicable rates of the Guaranteed Minimum Income benefit or any other assistance that may be payable to persons without adequate resources. This does not permit to assess the adequacy of the social assistance in Cyprus. The Committee notes however that the requirement of a 5-year continuous legal stay in Cyprus to be able to apply for the GMI is excessive and would pose a problem of conformity with Article 13§1.

The Committee also stresses that under Article 13§4 emergency social and medical assistance should be granted to foreign nationals who are lawfully present in Cyprus, but do not have resident status, and in certain cases also to persons in irregular situations.

The Committee invites Cyprus to continue their efforts with a view to securing the effective right to social and medical assistance and acceptance of Article 13§§1 and 4 in the future.

Article 16 (*Right of the family to social, legal and economic protection*)

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.

Situation in Cyprus

According to the information provided in the report, the Social Welfare Services provide a variety of programs which focus on: (1) offering support and strengthening families to enable them to effectively exercise their roles and responsibilities and (2) preventing the aggravation of conditions that might lead to family disruption. Such programmes include family support and preventive services, counselling, family guidance, home-help, child day-care, services for older family members and persons with disabilities, child protection, specialised services for families experiencing violence, services for children who must be taken into care, such as foster care and residential care, as well as counselling and other social services aiming at improving conditions and facilitating the earliest possible return of the children to their own homes.

The Ministry of Labour, Welfare and Social Insurance is implementing State Aid Schemes, in accordance with the EU Regulation 360/2012 and the Commission Decision 2012/21, for the provision of services of general economic interest where NGOs and local authorities may receive state aid, if they fulfil certain criteria, for the development and functioning of quality social care programmes, including childcare services, long-term social care services to the elderly and persons with disabilities, counselling programmes and other specialized programmes covering specific needs, such as violence in the family, unaccompanied minors and victims of trafficking.

The child benefit is granted to families who have had their legal and continuous residence in the areas under the effective control of the Cyprus Government, for at least the last five years prior to the submission of the application. Single parent families receiving child benefit are also entitled to a single parent benefit for each dependent child, provided the single parent and the dependent child have had their legal and continuous residence, in the areas under the effective control of the Cyprus Government for at least the last 5 years prior to the submission of the application. For EU citizens the EU Regulation 883/2004 Article 68 applies.

The Cypriot authorities note that despite the described policies, they cannot accept Article 16 as the right to some benefits does not extend to nationals of non-EU States Parties irrespective of a legal and continuous stay of 5 years.

Opinion of the European Committee of Social Rights

Article 16 implies 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.

Article 16 covers all constellations which are defined as 'family' by domestic law. However, domestic law must not provide for an unduly restrictive definition. States Parties enjoy discretion to choose the means in their endeavour to ensure the social, legal and economic protection of the various types of families that can be found in the population.

Article 16 guarantees the family a right to decent housing, which implies promoting and providing an adequate supply of housing for families, taking their needs into account.

States Parties are required to ensure that childcare facilities are available, affordable and of good quality. Families should have access to appropriate social services, in particular in times of difficulty, including family advice and psychological guidance on childrearing. Spouses must be equal in respect of rights and duties within the couple. In cases of family breakdown, Article 16 requires the provision of legal arrangements to settle marital conflicts, in particular conflicts relating to children. Any restrictions of custodial rights should be based on adequate and reasonable criteria laid down by the law, and should not go beyond what is necessary for the protection and best interest of the child and the rehabilitation of the family. Placement of the child outside the home must be an exceptional measure, and is only justified when based on the needs of the child, i.e. if remaining in the family represents a danger.

States Parties are required to provide family mediation services that should be accessible, free of charge, and effective. Whereas Article 16 applies to all forms of domestic violence, adequate protection of such violence against women must be ensured, both in law and in practice, and violence against children is examined under Article 17.

States Parties are required to ensure the economic protection of the family by appropriate means, primarily through family or child benefits provided as part of social security, which must constitute an adequate income supplement for a significant number of families. Other forms of economic protection, such as birth grants, additional payments to large families or tax relief in respect of children, are also relevant to the implementation of this provision.

In accordance with the principle of equal treatment, States Parties are required to ensure the protection of vulnerable families, single-parent families, Roma families, as well as foreign nationals of other States Parties who are lawfully resident or regularly working in the national territory.

The Committee encourages Cyprus to continue their efforts in securing the right of the family to social, legal and economic protection. Further detailed information is needed to assess whether the relevant aspects of Article 16 are effectively guaranteed in practice.

Article 17 (*Right of children and young persons to social, legal and economic protection*)

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 directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

Article 17§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;
- b) to protect children and young persons against negligence, violence or exploitation;
- c) to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support.

Situation in Cyprus

As regards Article 17§1(a) the report refers to the SWS competence to establish and maintain institutions and services to protect children against negligence, violence or exploitation, and provide special aid to children under the age of 18 who temporarily or definitely are deprived of their family's support. The report also refers to the state aid scheme for NGOs and local authorities, promoting the development and functioning of quality social care programmes. The Cypriot authorities however note

that their current legislative framework does not define the criteria for “sufficient and adequate” institutions and services. For this reason the authorities refrain from accepting this provision.

As regards Article 17§1(b) a new Law 91(I)/2014 has been enforced providing for the prevention and combating of sexual abuse and sexual exploitation of children and child pornography. The Law transposes provisions of the Directive 2011/93/EU and of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention, 2007). Within the framework of the National Strategy and Action Plan for combating sexual abuse and exploitation of children and child pornography (2016–2019) and based on the Council of Ministers Decision from 21 March 2016 (No 80.430), the Children’s House was established in 2017. The Social Welfare Services provide financial assistance for running of this programme. The Children’s House operates under the supervision and in cooperation with the Social Welfare Services as well as with other relevant services (Police, Health and Mental Health Services, Ministry of Education, Culture, Sports and Youth, etc.). The Children’s House provides child-friendly services to children victims of sexual abuse and/or sexual exploitation, based on a multidisciplinary approach. The Council “Foni” has been established with responsibility for the implementation of the National Strategy.

Laws concerning protection of children and families are applicable to children and families legally residing in the Republic of Cyprus. In the case of an emergency concerning negligence, violence or exploitation of a child, there are short-term provisions to establish the well-being of the child, even if the child is not a legally resident in the Republic of Cyprus, In the case of a permanent situation, the SWS proceeds with the procedures to establish a legal residence status for the child.

As regards Article 17§1(c), the Cypriot authorities suggest that neither the legislative framework nor practice allow for acceptance of this provision. However, no further details are presented.

Opinion of the European Committee of Social Rights

Article 17§1 integrates into the Charter rights which are guaranteed by the UN Convention on the Rights of the Child, and Article 17 is interpreted in light of the UN Convention on the Rights of the Child. Article 17§1 covers a number of issues: the legal status of the child; rights of children in public care; protection of children from violence, ill-treatment and abuse; children in conflict with the law; the right to assistance.

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. The Committee considers that immediate assistance under this provision is essential for all persons under the age of 18 years (unless under the applicable law majority is attained earlier), without prejudice to the other specific provisions provided by the Charter, in particular by Article 7.

Any restriction or limitation of parents custodial rights should be based on criteria laid down in legislation, and should not go beyond what is necessary for the protection and best interest of the child and the rehabilitation of the family.

The long term care of children outside their home should take place primarily in foster families suitable for their upbringing. Children placed in institutions are entitled to the highest degree of satisfaction of their emotional needs and physical well-being as well as to special protection and assistance.

States Parties’ domestic law must prohibit and penalise all forms of violence against children, including all forms of corporal punishment, in the home, as well as in all educational settings, public and private and in all alternative care settings. Application of paragraph 1 (b) of Article 17 is of particular importance, because failure to apply it will expose a number of children and young persons to serious risks to their lives or physical integrity. States Parties must take the necessary and appropriate measures to guarantee the minors in question the care and assistance they need and to

protect them from negligence, violence or exploitation, thereby posing a serious threat to the enjoyment of their most basic rights, such as the rights to life, to psychological and physical integrity and to respect for human dignity.

In its previous assessment in 2015 the Committee noted that while the Government had undertaken measures to attain the highest standard of the rights of the child, some aspects of legal situation and practice in Cyprus may raise problems of conformity with Article 17§1. Further information on the implementation of the described measures is needed to assess whether the established institutions and services are sufficient and adequate for the purpose of achieving the aims of Article 17§1. The Cypriot authorities may give consideration to acceptance of Article 17§1(b).

Article 17§2

➤ to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools

Situation in Cyprus

The report contains no information on this provision.

Opinion of the European Committee of Social Rights

Article 17§2 requires States Parties to establish and maintain an education system that is both accessible and effective. There must be *inter alia* a functioning system of primary and secondary education which includes an adequate number of schools fairly distributed over the geographical area (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.

Equal access to education must be ensured for all children. In this respect particular attention should be paid to vulnerable groups such as children from minorities, children seeking asylum, refugee children, children in hospital, children in care, pregnant teenagers, teenage mothers, children deprived of their liberty, etc. Children belonging to these groups must be integrated into mainstream educational facilities and ordinary educational schemes. Where necessary, special measures should be taken to ensure equal access to education for these children.

According to Article 17§2, primary and secondary education must be free of charge. This covers the basic education system. In addition, hidden costs such as books or uniforms must be reasonable and assistance must be available to limit their impact on the most vulnerable groups.

Measures must be taken to encourage school attendance and to actively reduce the number of children dropping out or not completing compulsory education and the rate of absenteeism.

As the report does not provide relevant information on the primary and secondary education system and school attendance, the Committee is not in a position to assess the situation as regards Article 17§2.

Article 18 (Right to engage in a gainful occupation in the territory of other Parties)

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:

Article 18§1:

➤ to apply existing regulations in a spirit of liberality;

Article 18§2:

➤ to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;

Article 18§3:

➤ to liberalise, individually or collectively, regulations governing the employment of foreign workers.

Situation in Cyprus

According to the information provided in the report, non-EU nationals are currently only allowed to work in Cyprus if an employer obtains a work permit for them. A basic precondition of this permit is the absence of prospects to meet the specific needs of the employer by local work force.

The Cypriot authorities indicate that at present they cannot contemplate acceptance of Article 18.

Opinion of the European Committee of Social Rights

Article 18 applies to employees and the self-employed who are nationals of States which are party to the Charter. It also covers members of their family allowed into the country for the purposes of family reunion. Article 18 relates not only to workers already on the territory of the State concerned, but also to workers outside the country applying for a permit to work on the territory.

The assessment of the degree of liberality used in applying existing regulations is based on figures showing the refusal rates for work permits. To this end, the figures supplied must be broken down by country and must also distinguish between first-time applications and renewal applications.

Economic or social reasons might justify limiting access of foreign workers to the national labour market. This may occur, for example, with a view to addressing the problem of national unemployment by means of favouring employment of national workers. However, the implementation of such policies limiting access of third-country nationals to the national labour market, should neither lead to a complete exclusion of nationals of non-EU (or non-EEA) States parties to the Charter from the national labour market, nor substantially limit the possibility for them of acceding the national labour market.

Formalities and dues and other charges governing the employment are dealt with specifically under Art.18§2. Conformity with Article 18§2 presupposes the possibility of completing such formalities in the country of destination as well as in the country of origin and obtaining the residence and work permits at the same time and through a single application. It also implies that the documents required (residence/work permits) will be delivered within a reasonable time. States Parties are under an obligation to reduce or abolish chancery dues and other charges paid either by foreign workers or by their employers. In order to comply with such an obligation, States must, first of all, not set an excessively high level for the dues and charges in question that is a level likely to prevent or discourage foreign workers from seeking to engage in a gainful occupation, and employers from seeking to employ foreign workers.

In addition, States have to make concrete efforts to progressively reduce the level of fees and other charges payable by foreign workers or their employers. States are required to demonstrate that they have taken measures towards achieving such a reduction. Otherwise, they will have failed to demonstrate that they serve the goal of facilitating the effective exercise of the right of foreign workers to engage in a gainful occupation in their territory.

The information provided in the Cypriot report is too scarce and further information on the current legal situation and practice is needed to allow a proper assessment of the situation as regards Article 18§§1–3. Access limits of foreign workers to the labour market may be compatible with Article 18

insofar as these do not lead to a complete exclusion of non-EU nationals from the labour market. To permit full assessment of the situation in practice as regards Article 18§1, data on the refusal rates for work permits needs to be collected by authorities.

Article 21 (*Right to information and consultation*)

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:

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

b. to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.

Situation in Cyprus

According to the report, the conditions pertaining to information and consultation of workers have remained unchanged and were described in the 2006 report on non-accepted provisions. Furthermore, no changes have been observed regarding the general size of Cypriot enterprises, which are mainly at the micro level. These circumstances negate the possibility of applying the provisions of Article 21 to a large percentage of employees or a large number of enterprises.

The Cypriot authorities indicate that Article 21 cannot be accepted at this time.

Opinion of the European Committee of Social Rights

Article 21 applies to all undertakings, whether private or public. 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.

States Parties may exclude from the scope of this provision those undertakings employing less than a certain number of workers, to be determined by national legislation or practice. The thresholds established by Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002, i.e. undertakings with at least 50 employees or establishments with at least 20 employees in any one EU member state are in conformity with this provision.

Workers and/or their representatives (trade unions, worker's delegates, health and safety representatives, works' councils) must be informed on all matters relevant to their working environment except where the conduct of the business requires that some confidential information not be disclosed. They must be consulted in good time with respect to proposed decisions that could substantially affect the workers' interests, in particular those which may have an impact on their employment status.

These rights must be effectively guaranteed. In particular, workers must have legal remedies when these rights are not respected. There must also be sanctions for employers who fail to fulfil their obligations.

The Committee recalls the particular situation of the Cypriot labour market as described in the 2006 report, whereby about 97% enterprises employ less than 20 employees while about 99% enterprises

employ less than 50 employees. The 2006 report also noted that about 94% of all enterprises are family-run, employing up to 4 employees. As a consequence, the enterprise structure in Cyprus creates a special situation where the undertakings formally excluded from the information and consultation obligations make up an overwhelming majority of the labour market.

On the other hand, the Committee notes that as a EU Member State, Cyprus has been bound to implement the Directive 2002/14/EC establishing a general framework for informing and consulting employees. In turn, the preamble of the European Parliament resolution of 19 February 2009 on the implementation of Directive 2002/14/EC makes reference *inter alia* to Article 21 of the Revised European Social Charter.¹ The Committee also takes note that in the past Cyprus made use of the transitional provisions provided for in Article 10 of the Directive 2002/14/EC, which have now expired. According to the information provided in the Commission Staff Working Document on the review of the application of Directive 2002/14/EC in the EU (SEC (2008) 334)², Cyprus applies Directive 2002/14/EC in undertakings employing at least 30 workers. The threshold is calculated on the basis of the average number of employees, with a contract of employment of a fixed or indefinite term or on part-time, who have been employed by the undertaking in the previous two years.

The Committee also notes that the practical arrangements for information and consultation can be suitably adapted to the size of the undertaking, while the right to be informed about the situation of the undertaking and consulted about decisions which affect the interests of workers is relevant for all workers irrespective of the size of the enterprise.

Based on the above, the Committee considers that the factual circumstances in Cyprus do not preclude acceptance of Article 21, and invites the authorities to accept this provision to ensure the effective exercise of the right of workers to be informed and consulted.

Article 23 (*Right of elderly persons to social protection*)

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:

- to enable elderly persons to remain full members of society for as long as possible, by means of:
 - a) adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;
 - b) provision of information about services and facilities available for elderly persons and their opportunities to make use of them;
- to enable elderly persons to choose their lifestyle freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:
 - a) provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;
 - b) the health care and the services necessitated by their state;
- to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in their institution.

Situation in Cyprus

According to the report, the rights of elderly people to health care services are granted by the General Healthcare System (see also information provided under Article 13).

¹ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:076E:0011:0016:EN:PDF>

²

[https://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/sec/2008/0334/COM_SEC\(2008\)0334_EN.pdf](https://www.europarl.europa.eu/RegData/docs_autres_institutions/commission_europeenne/sec/2008/0334/COM_SEC(2008)0334_EN.pdf)

However, based on the current care system, individualized care information is only provided to people in need of state financial assistance based on specific criteria (recipients of a guaranteed minimum income). When a decision is taken as to the type of care, the wishes of the elderly are taken into consideration where appropriate and according to the circumstances.

As regards guaranteeing elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institutions, neither the legislative framework nor practice has been changed. The Social Welfare Services regulate the minimum standards of establishments providing social care. However, the current legislative framework does not define “appropriate support”.

While privacy is respected within the wider legislative framework, in some cases it may be necessary to accommodate more than one person in a room and/or be necessary to inform of specialists outside the institution. The legislative framework does not provide for participation in decisions concerning living conditions in the institutions and the authorities do not consider it appropriate to impose these terms on private businesses.

The report indicates that the Cypriot authorities do not consider accepting Article 23 at this time.

Opinion of the European Committee of Social Rights

Under Article 23 States Parties shall combat age discrimination in a range of areas beyond employment, namely in access to goods, facilities and services, healthcare, education, services such as insurance and banking products, participation in policy making/civil dialogue, allocation of resources and facilities. An adequate legal framework is required to combat age discrimination in these areas. There should also be a legal framework on assisted decision making for the elderly guaranteeing their right to make decisions for themselves unless it is shown that they are unable to make them.

To assess the adequacy of resources, all social protection measures guaranteed to elderly persons and aimed at maintaining income level allowing them to lead a decent life and participate actively in public, social and cultural life are taken into account. The emphasis is on minimum level of pensions, but other complementary cash benefits available to elderly persons are also considered. These resources are compared with the median equivalised income in the country concerned. The Committee also takes into consideration indicators relating to at-risk-of-poverty rates for persons aged 65 and over.

The Committee assesses the existence, extent and cost of home help services, community based services, specialised day care provision (e.g. for persons with dementia and related illnesses) and services such as information, training and respite care for families caring for elderly persons, in particular, highly dependent persons, as well as cultural leisure and educational facilities available to elderly persons. States must also have a system for monitoring the quality of services, a procedure for complaining about the standard of services and an appropriate regulation of fees for services.

Housing law and policy must take account of the special needs of elderly persons. There shall be sufficient supply of adequate and appropriate housing for elderly persons, and assistance for the adaptation of homes and provision of sheltered/supported housing to allow elderly persons to remain in their own homes for as long as possible. There must also be health care programmes and services (in particular primary health care services including domiciliary nursing/health care services), specifically aimed at the elderly, mental health programmes for any psychological problems in respect of the elderly, as well as adequate palliative care services.

Elderly persons living in institutions must be guaranteed the right to appropriate care and adequate services, the right to privacy, the right to personal dignity, the right to participate in decisions concerning the living conditions in the institution, the protection of property, the right to maintain

personal contact with persons close to the elderly person and the right to complain about treatment and care in institutions.

As regards acceptance of Article 23 of the Charter, the situation in practice is of particular importance in order to assess whether the effective exercise of the right of elderly persons to social protection is ensured.

The Cypriot report does not provide information on the measures to combat age discrimination nor on resources enabling elderly persons to remain active in public, social and cultural life.

The Committee stresses that the right to participate in decisions concerning the living conditions in the institution, secured by Article 23, is an important aspect of self-determination and personal autonomy, to which public and private providers of institutional care services need to abide.

The Committee encourages Cyprus to continue its efforts towards ensuring the right of elderly persons to social protection in view of possible acceptance of Article 23.

Article 26 (*Right to dignity at work*)

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' organisations:

Article 26§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;

Situation in Cyprus

According to the report, respective provisions are covered by the Equal Treatment Between Men and Women Law (N. 205 (I)/2002).

Opinion of the European Committee of Social Rights

Under Art.26§1 there is no obligation to enact specific legislation relating to sexual harassment insofar as the general legal framework ensures an effective protection in law and in practice against harassment in the workplace or in relation to work.

States shall take appropriate preventive measures, such as information, awareness-raising and prevention campaigns in the workplace or in relation to work to combat sexual harassment. Workers should be informed about the nature of the behaviour in question and the available remedies. There shall be effective protection against harassment, including the right to appeal to an independent body in the event of harassment, the right to obtain adequate compensation and the right not to be retaliated against for upholding these rights.

Effective protection of employees also requires a shift in the burden of proof, making it possible for a court to find in favour of the victim on the basis of sufficient prima facie evidence and the personal conviction of the judge or judges. Victims of sexual harassment must have effective judicial remedies to seek reparation for pecuniary and non-pecuniary damage, and to act as a deterrent to the employer.

The Committee reiterates its earlier finding that Article 26§1 could be immediately accepted by Cyprus.

Article 26§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.

Situation in Cyprus

The authorities note in the report that the current legislative framework in Cyprus does not contain any specific provisions as regards “negative and offensive actions”. For this reason they currently refrain from accepting Article 26§2, but will re-examine this provision at a later stage.

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Under Article 26§2 States are required to take all necessary preventive and compensatory measures to protect individual workers against recurrent reprehensible or distinctly negative and offensive actions directed against them at the workplace or in relation to their work, and to combat moral harassment.

The absence of such measures in Cyprus poses a problem of conformity with Article 26§2. The Committee encourages the authorities to take additional measures towards bringing the situation in law and in practice in conformity with Article 26§2, thus allowing its acceptance.

Article 27§1 (*Right of workers with family responsibilities to equal opportunities and equal treatment – Participation in working life*)

With a view to ensuring 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, the Parties undertake:

- to take appropriate measures:
 - a. to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter 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 day care services and other childcare arrangements.

Situation in Cyprus

The report refers to the enforcement of the Parental Leave and Leave on Grounds of Force Majeure Legislation (2002–2010), which provides the right to parental leave for every employed parent. However, apart from the parental leave legislation, the terms and conditions of employment are negotiated freely between employers and employees through the industrial relations system, without any distinction being made between employees with or without family responsibilities.

The report indicates that the Cypriot authorities do not consider accepting Article 27§1 at this time.

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Article 27§1 addresses the issues of reconciliation of work and family responsibilities.

Under Article 27§1(a), States shall ensure that workers with family responsibilities are not discriminated against and shall take positive action, in particular by means of vocational guidance, training and re-training, to provide people with family responsibilities with equal opportunities in respect of entering, remaining and re-entering employment.

With regard Article 27§1(b), States must take measures concerning the length and organisation of working time. Workers with family responsibilities should be allowed to work part-time or to return to full-time employment. Periods out-of-employment due to family responsibilities should be taken into account when determining the right to and calculating the amount of pension. Crediting of periods of childcare leave in pension schemes should be secured equally to men and women.

Under Article 27§1(c), States shall develop child day care services and other childcare arrangements, and make them available and accessible to workers with family responsibilities. Another aspect addressed under Art. 27§1(c) is that parents should be allowed to reduce or cease work because of the serious illness of a child. As regards child care services, there is an overlap between Article 16 and Article 27§1(c) of the Charter.

As regards the measures stipulated in Article 27§1(b), the Committee recalls that the 2015 report gave information on the credits provided under the Social Insurance Law for the periods when the woman is absent from work and receiving maternity allowance or when the insured person is on parental leave.

Further information is needed to assess whether equal opportunities and equal treatment for men and women workers with family responsibilities is ensured in law and in practice.

The Committee encourages Cyprus to take the necessary measures to ensure an effective right of workers with family responsibilities to equal opportunities and equal treatment in line with Article 27§1.

Article 30 (*Right to protection against poverty and social exclusion*)

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

- a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or 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.
- b. to review these measures with a view to their adaptation if necessary.

Situation in Cyprus

According to the report, the Social Welfare Services are responsible for social policies aiming at reduction of poverty and social exclusion by means of provision of accessible and affordable social care programmes, including childcare services for children up to the age of compulsory education.

The Law 109(I)/2014 introduced a Guaranteed Minimum Income (GMI). The benefit aims to ensure a socially acceptable minimum standard of living for persons (and families) legally residing in the Republic of Cyprus whose income and other economic resources are insufficient to meet their basic and special needs. Supplementary allowances and services include rent allowance or house loan interest allowance, subsidies for municipality and other levies (with no specified amounts), extraordinary needs, as well as care and assistance needs.

Guaranteed Minimum Income (GMI) benefit: The benefit aims to ensure a socially acceptable minimum standard of living for persons (and families) legally residing in Cyprus whose income and other economic resources are insufficient to meet their basic and special needs. The GMI is provided in the form of monetary support and/or services; the entitlement to the benefit is guaranteed for the claimant if all the conditions laid down by law are satisfied. The Law on Guaranteed Minimum Income extended public assistance for low income earners, pensioners with low incomes and other vulnerable groups of people.

There is a scheme supporting pensioners' households with low income providing cash benefits to pensioners' households whose total annual income is below the poverty threshold.

The report also refers to the regulatory framework and implementation of the State Aid Schemes, under the Regulation 360/2012, and under the Commission Decision 2012/21 EU, for the provision of services of general economic interest where NGOs and local authorities may receive state aid (if they fulfill certain criteria) for the development and functioning of quality social care programmes. There are also other social policies which aim at supporting vulnerable people, including unaccompanied minors, victims of trafficking, victims of domestic violence etc. Policies relating to employment, education, training etc, are the responsibility of other competent authorities.

The Cyprus National Reform Programme under Europe 2020 Strategy describes the measures taken to reduce poverty and social exclusion.

The Cypriot authorities indicate their concern whether the categories of support prescribed by Article 30 of the Revised Charter apply also to people outside the scope of the current national legislation in Cyprus.

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Article 30 requires States to adopt an overall and coordinated approach, which should consist of an analytical framework, a set of priorities and measures to prevent and remove obstacles to access fundamental social rights. There should be in place monitoring mechanisms involving all relevant actors, including civil society and persons affected by poverty and social exclusion. This approach must link and integrate policies in a consistent way, moving beyond sectoral or target group approach.

The measures taken must promote and remove obstacles to access to fundamental social rights, in particular employment, housing, training, education, culture and social and medical assistance, addressing the multidimensional phenomena of poverty and social exclusion. The measures should strengthen access to social rights, their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights, and where necessary, specifically target the most vulnerable groups and regions.

Access to fundamental social rights is assessed by taking into consideration the effectiveness of policies, measures and actions undertaken. As long as poverty and social exclusion persist, there should be an increase in the resources deployed to make social rights possible. Adequate resources should be allocated to attain the objectives of the strategy. The measures should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country.

To assess national situations, the Committee uses the Eurostat at-risk-of-poverty rate (the percentage of people living under the poverty threshold, which is set at 60% of the equivalised median income) before and after social transfers is used as a comparative value.

In a statement of interpretation from 2013, the Committee noted that the economic crisis should not have as a consequence the reduction of the protection of the rights recognised by the Charter. The governments are bound to take all necessary steps to ensure that the rights of the Charter are effectively guaranteed at a period of time when beneficiaries need the protection most.

The Committee takes note that the Cyprus National Reform Programme under Europe 2020 Strategy³ regards measures to promote social inclusion and activation of vulnerable groups of population who are threatened by the risk of poverty and social exclusion as one of the priorities in the context of the

³ https://ec.europa.eu/info/sites/info/files/2020-european-semester-national-reform-programme-cyprus_en.pdf

country's social protection policy. At the same time the Committee observes that the share of population living at risk of poverty or social exclusion in Cyprus has declined over the last 5 years (from 28.9 in 2015 to 22.4% in 2019 based on Eurostat data), but still remains above the EU average (21.4% in 2019). The Committee stresses its case law whereby the measures taken and resources allocated to attain the objectives of the strategy shall correspond to the nature and extent of poverty and social exclusion in the country.

The Committee encourages Cyprus to take the necessary measures and ensure a steady progress towards securing the right to protection against poverty and social exclusion, thus allowing acceptance of Article 30.

Article 31 (*Right to housing*)

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

Article 31§1 (*Adequate housing*)

- to promote access to housing of an adequate standard

Article 31§2 (*Reduction of homelessness*)

- to prevent and reduce homelessness with a view to its gradual elimination;

Article 31§3 (*Affordable housing*)

- to make the price of housing accessible to those without adequate resources.

Situation in Cyprus

The Cypriot authorities indicate that they do not consider accepting Article 31 at this time. No other information or explanation is provided.

Opinion of the European Committee of Social Rights

The right to housing permits the exercise of many other rights – both civil and political as well as economic, social and cultural.

Under Article 31§1 States must guarantee to everyone the right to adequate housing. Adequate housing means a dwelling which is: 1) safe from a sanitary and health point of view and possesses all basic amenities (such as water, heating, waste disposal, sanitation facilities, electricity, etc); 2) not over-crowded – the size of the dwelling must be suitable in light of the number of persons and the composition of the household in residence; 3) with secure tenure supported by the law. To ensure that the housing stock is adequate, public authorities shall take appropriate measure, such as conduct an inventory of the housing stock; apply injunctions against owners who disregard obligations; adopt urban development rules and maintenance obligations for landlords; and take safeguards against the interruption of essential services such as water, electricity and telephone. Public authorities shall also promote access to housing for different groups of vulnerable persons, such as low-income persons, unemployed persons, single parent households, young persons, persons with disabilities, including those with mental health problems. Hence, beyond legal provisions effective implementation is necessary.

Article 31§2 addresses the issue of prevention and reduction of homelessness. States must take action to prevent groups of vulnerable people from becoming homeless, in particular by ensuring access to social housing and setting up procedures to limit the risk of eviction. Evictions should be governed by rules of procedure, which are sufficiently protective of the rights of the persons concerned. There shall be legal protection of persons threatened by eviction, including an obligation

to consult the parties affected to find alternative solutions to eviction, and an obligation to fix a reasonable notice period before eviction. Evictions, if they could not be avoided, must be carried out under conditions which respect the dignity of the persons concerned. Evictions carried out at night or during the winter period shall be prohibited by law and authorities must adopt measures to re-house or financially assist the persons concerned. To prevent homelessness, there shall be access to emergency measures, such as shelter, accompanied with procedures to find more permanent housing. The conditions in temporary shelters shall enable living in keeping with human dignity.

Article 31§3 addresses the affordability of housing, in particular for persons with limited resources. Social housing should target the most disadvantaged. Waiting periods for the allocation of housing must not be excessive, and legal and non-legal remedies must be available when waiting periods are long. Housing benefits shall be available at least for low-income and disadvantaged groups.

Finally, the rights to housing must be guaranteed without discrimination, in particular in respect of Roma or travellers.

The Committee encourages Cyprus to take the necessary measures and ensure steady progress towards securing the right to housing.

APPENDIX I

Situation of Cyprus with respect to the European Social Charter

Signatures and ratifications

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. On 5 October 2011 Cyprus accepted 9 additional provisions of the Revised Charter, bringing the total number of accepted provisions to 72 numbered paragraphs.

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 ¹	23	24	25	26.1
26.2	27.1	27.2	27.3	28	29	30	31.1	31.2	31.3	

¹ Sub-paragraph b accepted