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EUROPEAN SOCIAL CHARTER

11th National Report on the implementation of the European Social Charter

submitted by

THE GOVERNMENT OF LITHUANIA

(Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29)

for the period 01/01/2009 – 31/12/2012)

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CYCLE 2014

ELEVENTH REPORT OF THE REPUBLIC OF LITHUANIA

ON ARTICLES WHICH BELONG TO THIRD GROUP "LABOUR RIGHTS"
(2, 4, 5, 6, 21, 22, 26, 28, 29)
OF EUROPEAN SOCIAL CHARTER

Reference period: 2009.01.01 - 2012.12.31

Vilnius
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ACR

ONYMS USED IN THE REPORT:

LC − Labour Code of the Republic of Lithuania
LITEKO − Lithuanian courts information system
MMW − Minimum Monthly Wage
SLI − State Labour Inspectorate under the Ministry of Social Security and Labour of the Republic of Lithuania

Article 2§1

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

1. to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;

Table 2.1.1. The average duration of weekly working hours per employee in 2010-2012

The average duration of weekly working hours per employee	**2010**	**2011**	**2012**
Public sector	33,13	33,10	32,95
Private sector, excluding individual enterprises	34,88	34,92	34,80
According to economic activities			
Agriculture, fisheries and forestry	35,93	36,07	35,83
Mining and quarrying	35,76	35,65	35,51
Manufacturing	35,76	35,65	35,52
Electricity, gas and water supply	34,88	35,17	34,99
Construction	36,40	36,55	36,05
Wholesale and retail trade; repair of motor vehicles and motorcycles; repair of personal and household goods	36,23	36,28	36,20
Hotels and restaurants	36,60	36,73	36,76
Financial intermediation	35,57	34,86	34,85
Real estate, renting and other business activities	36,77	36,61	36,36
Public administration and defence	34,26	34,14	34,10
Education	30,52	30,34	29,91
Health care and social work	34,20	34,36	34,44

Article 2§2

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake: 2. to provide for public holidays with pay;

Since 1 January 2011 Amended Article 162 "Public holidays" of the Labour Code increased the number of public holidays from fourteen to fifteen.

Table 2.2.1. SLI Data about Complaints Examined by it in 2009-2012

Issues	**2009**	**2010**	**2011**	**2012**
Concerning payment for work on public holidays, overtime and night work	173	150	179	114
Concerning work and rest regime	425	408	461	401
Concerning work time accounting	308	362	484	295
Concerning overtime work	201	173	211	127
Concerning on-call duty at night and on-call duty	27	23	27	23

Article 2§3

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake: 3. to provide for a minimum of two weeks' annual holiday with pay;

Answers to the questions and conclusions of the European Committee of Social Rights:

The Committee understands that only annual leave over and above 4 weeks may be postponed. It asks whether this interpretation is correct.

No. Currently it shall be permitted to postpone, transfer annual leave only above 2 uninterrupted weeks at the request or subject to the consent of the employee.

Article 2§4

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

4. to provide for additional paid holidays or reduced working hours for workers engaged in dangerous or unhealthy occupations as prescribed;

During the reference period the following legislation was changed:

1. Law on safety and health at work (entered into force on 1 March 2010)
2. General regulations concerning the assessment of occupational risks (entered into force on 1 November 2012).

Law on safety and health at work was amended in order to implement Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market. Aim of the law – to establish a non-discriminatory legal regulation in respect of other Member States Occupational Safety and Health service providers, to ensure the same level playing field for business and competitive conditions, to reduce the administrative and financial burden for businesses of such services and reduce the administrative burden on enterprises.

The law sets that a national of the Republic of Lithuania or any other Member State of the European Union or any other country of the European Economic Area, any other natural person benefiting from the rights of movement within Member States conferred upon him by legal acts of the European Union and/or a legal person established in the Republic of Lithuania or a legal person or any other organization or their branches established in any other Member State may provide occupational safety and health services. Specialists in safety and health at work must meet the qualification requirements set by the Minister of Social Security and Labour. The following provisions were abolished: provisions of licensing natural persons and legal persons who provide occupational safety and health services; requirement for employer to inform of it the State Labour Inspectorate about the undertaking in which a safety and health service is established, or, when such undertaking is not established, about functions of such service carried out by an enlisted agency or persons.

According to the changes in the Law on Safety and Health at work and practice of application of General regulations concerning the assessment of occupational risks General regulations concerning the assessment of occupational risks were approved. The regulations clarify the terms, provisions for the organization and performance of risk assessment. It is set that after the occupational risks are evaluated the enterprise fills the freely chosen form of a document. Enterprises that have implemented occupational safety and health management standards are no longer required to complete occupational risks identification cards.

Table 2.4.1. SLI Data about Complaints Examined by it in 2009-2012

Issues	2009	2010	2011	2012
Concerning setting up of work places	153	183	245	163
Concerning working tools	43	57	74	41
Concerning hazardous working conditions	52	90	105	71
Concerning investigation of occupational diseases	1	1	0	1

Issues	2009	2010	2011	2012
Concerning investigation of accidents at work	65	77	81	72
Concerning other occupational safety and health issues	123	66	41	28
Concerning annual and special- purpose leave	241	214	200	107
Concerning unpaid leave	68	58	43	21
Concerning work time regime	425	408	461	401
Concerning work time accounting	308	362	484	295
Concerning breaks at work	43	54	60	43
Concerning overtime work	201	173	211	127
Concerning work at night and on-call duty	27	23	27	23

Answers to the questions and conclusions of the European Committee of Social Rights:

The Committee asks information as to precisely what sectors benefit from reduced working hours.

A reduction in working hours if hazardous factors affect the working environment and exceed the acceptable limits (Government resolution No. 568 of 9 June 2006) is applicable to any sector of activities.

Article 2§5

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake: 5. to ensure a weekly rest period which shall, as far as possible, coincide with the day recognised by tradition or custom in the country or region concerned as a day of rest.

There are no amendments.

Article 2§6

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

6. to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;

Table 2.6.1. SLI Data about Statements Examined by it in 2009-2012

Issues	2009	2010	2011	2012
Concerning content and conclusion of labour contract	334	247	239	134
Concerning illegal work	1372	1076	1722	1796
Concerning implementation and changes made to the employment contract conditions	650	523	433	234
Concerning employment	255	143	148	131
Concerning termination of employment contract	1621	920	784	441

Article 2§7

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake: 7. to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

There are no amendments.

Article 4§1

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

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

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

As it was mentioned in previous report, according to Article 187 of Labour Code: the Government, upon the recommendation of the Tripartite Council, shall determine the minimum hourly pay and the minimum monthly wage. Upon the recommendation of the Tripartite Council, the Government may establish different minimum rates of the hourly pay and the minimum monthly wage for different branches of economy, regions or categories of employees. In 2012 this provision was amended adding a provision, that if Government do not establish or Tripartite Council do not apply for the new minimum hourly pay and minimum monthly wage till 1 June each year, Parliament determines these minimum amounts for the next year in it's spring session according to last year inflation, average wage and other factors.

Taking into account the 2010 conclusion of the European Committee of Social Rights concerning Lithuanian minimum monthly wage (MMW) and a little economic recovery after the crisis, in 2012 MMW was increased up to LTL 850 (EUR 246).

Since 1 January 2013 the MMW was increased by 18%, up to LTL 1,000 (EUR 290). There are active considerations in the Government with social partners about possibilities to increase it this year.

Table 4.1.1. Net MMW Compared to the Average Net Monthly Earnings, in Per cent

Type of economic activity	**Year**	MMW[1] as compared with the average gross monthly earnings, %	Net MMW[2] as compared with the average net monthly earnings, %
Total	**2009**	**38,9**	**42,4**
	2010	**40,2**	**43,7**
	2011	**39,1**	**42,6**
	2012	**39,1**	**42,0**
	2013	**44,9**	**47,9**

Answers to the questions and conclusions of the European Committee of Social Rights:

In its previous conclusion (Conclusions XVIII-2 *2007*) the Committee noted that the minimum statu ory wage did not apply to certain categories of workers and asked for more information on these categories. It also asked under what circumstances would a full-time worker receive a wage that falls below the statutory minimum wage. It notes that the report does not contain this information. Therefore, the Committee holds that it has not been established that a decent wage is guaranteed to all workers.

Under Article 187§1 of Labour Code of the Republic of Lithuania: "The Government, upon the recommendation of the Tripartite Council, shall determine the minimum hourly pay and the minimum monthly wage. Upon the recommendation of the Tripartite Council, the Government may establish different minimum rates of the hourly pay and the minimum monthly wage for different branches of economy, regions or categories of employees."

Since 2004 there have not been established different minimum rates of the hourly pay or different minimum monthly wages. Consequently the minimum statutory wage has applied to all categories of workers and there have been no legal circumstances that would allow a full-time worker receive a wage that falls below the statutory minimum wage.

2003- 2004 the different minimal wage was established for famers and their workers - LTL 430 (€ 124) instead of LTL 450 (€ 130), which was statutory minimum wage at that time. In 2004 this differentiation of minimum monthly wage was abolished.

There could be misunderstanding concerning minimum monthly wage of other group, which consists of state politicians, lawyers, state officials, the military and civil servants, to whom the so called different minimal wage of LTL 430 (in 2013 it was changed into LTL 450). This minimal wage was not the real wage, but it served as basic amount for counting different wages for different levels of the military and civil servants, other officials. Even theoretically there was no possibility to get this basic amount as a wage, always minimal wages of servants and officials were much higher than statutory minimum wage. For instance the minimal wage of the servant of lowest level was LTL 1010 in 2004, while the statutory minimum wage was LTL 500 at that time. In 2006 in order to avoid any connections with the statuary minimum monthly wage, the title of the minimal wage for state politicians, lawyers, state officials, the military and civil servants was changed into basic amount of official wage (Law No. X-789, 19 July 2006).

Article 4§2

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

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

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

According to Article 150 of Labour Code "an employer may apply overtime works only in exceptional cases, which are specified in Article 151 of the present Code. In other cases overtime works may be organised only with the written consent of employee or by his/her request."

Article 151. Exceptional Cases of Permitted Overtime Work

"Overtime work shall be permitted in the following exceptional cases:

1) when the work to be performed is necessary for national defence and for preventing accidents or dangers;

2) when the work to be performed is necessary for the public, containment of accident, natural disasters, etc.;

3) when it is necessary to finish the work which could not have been finished during the working time in the present technical production conditions because of an unforeseen or accidental obstacle, if an interruption of work may result in deterioration of production materials or breakdown of work equipment;

4) when the work to be performed is related to repair and renovation of mechanisms and equipment, if the majority of workers should interrupt their work due to the breakdown of the said mechanisms and equipment;

5) when the work is performed in the place of another shift worker who has failed to arrive at the workstation, if working process may be impeded because of this; in such cases the administration must replace the worker who is working the second consecutive shift by another worker not later than in the middle of the shift;

6) for the performance of the work to be performed is related to loading and unloading and other related transportation work, when it is necessary to vacate warehouses of transport enterprises, as well as for the performance of the work related to loading and unloading of means of transportation in order to avoid the accumulation of freight in dispatch and designation points and idle vehicle time;

7) when this is provided for in the collective agreement."

Answers to the questions and conclusions of the European Committee of Social Rights:

The Committee asks if the remuneration due for overtime can be replaced with compensatory leave.

No, the remuneration due for overtime can not be replaced with compensatory leave. The employee can get the compensatory leave for the work on public holidays.

Article 4§3

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

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

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

During 2009-2012 the Office of Equal Opportunities Ombudsperson of the Republic of Lithuania haven't received any complaint on pay differentials between men and women not working for the same employer by sector of the economy. More information about activity of the Office of Equal Opportunities Ombudsperson is provided www.lygybe.lt.

Answers to the questions and conclusions of the European Committee of Social Rights:

The Committee notes the information contained in the report on wage comparisons, it asks whether legislation permits, in equal pay cases, comparisons of pay and jobs to be made outside the company directly concerned and under what circumstances. It refers to its statement of interpretation in the General introduction in this respect:

There is no legislation permitting, in equal pay cases, comparisons of pay and jobs to be made outside the company directly concerned. But in practice there are guidelines for calculation of wages, where requirement for equal treatment between men and women is established.

Article 4§4

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

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

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

Appendix to Article 4§4
This provision shall be so understood as not to prohibit immediate dismissal for any serious offence.

There are no amendments.

Article 4§5

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

5. to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards.

The exercise of these rights shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions.

Appendix to Article 4§5
It is understood that a Contracting Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exceptions being those persons not so covered.

Answers to the questions and conclusions of the European Committee of Social Rights:
The Committee would also point out that under Article 4§5, domestic law must contain guarantees to the effect that workers may not waive their right to limited deductions from wages (Conclusions 2005, Norway). It asks for further information in the next report on the measures preventing workers from waiving this right.

Grounds for wage deductions, limitation on wage deductions, prohibition to make deductions from severance pay, compensations and some other allowances are determined by Articles 224-226 of Labour Code. Employee may limit wage deduction by the consent with employer. In case of unlawful wage deductions employee may apply to Labour disputes commission.

Article 5

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

Forming trade unions and employer associations

Answers to the questions and conclusions of the European Committee of Social Rights:

In its last conclusions (Conclusions 2004 and 2006) the Committee considered the conditions governing the registration of non-profit making organisations. It found that the requirement of thirty members to form a trade union was excessive and undermined the freedom to organise. The situation did not change during the reference period and the Committee considers that it remains incompatible with the Revised Charter. However, the report indicates that amendments to the Law on Trade Unions and the Civil Code were to be adopted. These amendments, if adopted, would reduce the minimum number of founders to twenty, or to 1/10 of all employees (instead of 1/5), but no less than three. The Committee notes the reduction of the threshold foreseen by the amendments for the minimum number of trade union founders, which would be in accordance with Article 5, and asks to be kept informed of these developments.

The mentioned amendments to the Law on Trade Unions and the Civil Code were adopted in June 2010.

Article 6§1

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake

1. to promote joint consultation between workers and employers;

There are no amendments.

Article 6§2

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake

2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;

Conclusion of collective agreements

Answers to the questions and conclusions of the European Committee of Social Rights:

The Committee recalls that if the spontaneous development of collective bargaining is not sufficient, positive measures should be taken to facilitate and encourage the conclusion of collective agreements. Whatever the procedures put in place are, collective bargaining should remain free and voluntary (Conclusions I, Statement of Interpretation on Article 6§2). The Committee notes that in March 2007 the Lithuanian Trade Union Confederation (LPSK, affiliated to the ITUC) and the Lithuanian Confederation of industrialists launched a joint project to improve sectoral level collective bargaining.[3] It asks the next report to include details with regard to developments in this regard. It also requests the Government to indicate what measures it has taken to take to facilitate and encouage the conclusion of collective agreements.

In Lithuania, the main institution in charge of reconciliation of interests of social partners (namely trade unions and employers' organization) and public authorities is the Tripartite Council of the Republic of Lithuania. Currently the Tripartite Council consists of trade unions, employers and representatives of the Government (in total, 21 members, i.e. 7 representatives of each party), the following institutions and organisations are represented:

1) public administration bodies: the Ministry of Social Security and Labour, the Ministry of Economy and the Office of the Government of the Republic of Lithuania;

2) three central (republican) trade union organisations: the Lithuanian Confederation of Trade Unions, the Lithuanian Labour Federation and the Lithuanian Trade Union "Solidarumas";

3) several employers' organisations: the Lithuanian Confederation of Industrialists, the Lithuanian Business Employers' Confederation, the Chamber of Agriculture of the Republic of Lithuania and the Association of Lithuanian Chambers of Commerce, Industry and Crafts.

Delegation of the representatives of employees and employers to the Tripartite Council is governed by the agreement between the Lithuanian trade unions and employers' central (republican) organisations "On Recognition of Mutual Social Partnership" approved by the Resolution of the Tripartite Council of 26 February 2008. The representatives of the Government shall be delegated to the tripartite Council by a resolution of the Government.

The Ministry of Social Security and Labour registers the collective agreements concluded at the State (national), sector (production, services, vocational) or territorial (municipality, county) level upon application the parties to which are trade unions and employers' organisations.

The following agreements were in force till 1th January 2013:

The sectoral collective agreement was concluded in 2007 between the Lithuanian Journalists' Union and the Association of National Regional and Urban Newspaper Publishers (Chairman – Dainius Radzevičius). In 2012, there was concluded a territorial collective agreement between the Western Lithuania Alliance of Trade Unions of Builders and Designers (Chairwoman – Elena Sungailienė) and the association of the Western Lithuania Group of Construction and Design Companies (Vakarų Lietuvos statybos ir projektavimo įmonių grupė) (President – Gediminas Bartkevičius). The agreement deals with the issues of remuneration for work, support for social partnership, additional support for employment and occupational safety and health.

According to the provisions of the Republic of Lithuania Labour Code in force, collective agreements of an undertaking are not subject to registration and there is no precise data on the number of collective agreements of such level. In 2012, the inspectors of the State Labour Inspectorate inspected 6,697 companies and structural units thereof (accordingly, 18,872 companies were inspected in 2006, 17,600 companies – in 2007, 15,859 companies – in 2008, 15,935 companies – in 2009, 12,411 companies – in 2010, and 12,325 companies – in 2011) and established that 204 collective agreements were signed in 2012 (1,157 collective agreements were signed in 2006, 1,238 collective agreements – in 2007, 903 collective agreements – in 2008, 290 collective agreements – in 2009, 248 collective agreements – in 2010, 273 collective agreements – in 2011) . The provided data suggests that the number of collective agreements signed in 2012 was lower than the number of collective agreements signed in 2011, but in 2012 less companies were inspected. An impact of the ongoing economic crisis is still felt and the social partnership take-off which was in the years 2006–2008 is still an objective to be attained.

In order to promote establishment of collective agreements and the coverage of workers by such agreements, in 2007 the Government of Republic of Lithuania adopted Programme on Strengthening Social Dialogue 2007-2011. The Secretariat of the Tripartite Council was responsible for the implementation of this Program. For instance even during the economic crises in 2010 it was allocated LTL 640 000 (€ 185 000) for the implementation of this Program, the same amount was allocated for 2011.

In the course of the implementation of the programme measures, 18 coordination training and education centres in Kėdainiai, Mažeikiai, Marijampolė, Alytus, Utena, Šiauliai, Druskininkai, Varėna, Anykščiai, Panevėžys, Naujoji Akmenė, Elektrėnai, Klaipėda, Kaunas, etc. were established. Social partners in districts and municipalities were encouraged to establish bilateral and trilateral councils, commissions and conclude collective agreements. In the course of the programme implementation, the Lithuanian Confederation of Trade Unions, the Lithuanian Labour Federation and the Lithuanian Trade Union "Solidarumas" established 24 trilateral and bilateral councils and commissions in Ukmergė, Šiauliai, Plungė, Utena, Alytus, Mažeikiai, Radviliškys, Akmenė, Varėna, Anykščiai and other Lithuanian cities.

The Lithuanian Trade Union "Solidarumas", the Lithuanian Labour Federation, and the Lithuanian Confederation of Trade Unions organised seminars, conferences and trainings across Lithuania on the level of counties and municipalities. 697 events were organised. In the course of these events 18,291 persons were trained, methodological material on safety and health at work was developed and issued, 85 committees on safety and health at work were established.

Seeking to encourage social dialogue, educational activities regarding the conclusion of sectoral collective agreements were organised. The Lithuanian Trade Union "Solidarumas" and the Lithuanian Labour Federation concluded 81 collective agreements on enterprises' level.

Having implemented this programme, social dialogue in counties and municipalities was enhanced, and the cooperation between trade unions and employers' organisations as well as abilities to participate in the social dialogue were improved. The public was constantly informed about the importance and benefits of social partnership as well as about decisions made in Lithuania with regard to issues significant for employees.

The procedure to establish trade unions was simplified by Law: amendments to the Law on Trade Unions and the Civil Code were adopted. These amendments reduce the minimum number of founders to twenty, or to 1/10 of all employees (instead of 1/5), but no less than three.

Article 6§3

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake

3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;

Answers to the questions and conclusions of the European Committee of Social Rights:

The Committee understood from the information provided in previous reports that in principle conciliation commissions may refer a dispute to arbitration however recourse to arbitration may be made only in the event the parties have agreed in writing to do so and have determined the scope and the subject of the collective dispute. The Committee asked for confirmation that this understanding was correct. (Conclusions 2006).It further sought confirmation that any decision of the conciliation commission are binding upon the parties only with their joint consent.

The conciliation commissions may refer a dispute to labour arbitration only in the event the parties have agreed to do so. Yes, the decision of the conciliation commission is binding upon the parties only in the case of their joint consent in the collective dispute.

Answers to the questions and conclusions of the European Committee of Social Rights:

The Committee notes from this explanation that arbitration cannot be considered as compulsory as the parties are always free to disagree and strike. The Committee asks the next report to confirm that it has correctly understood the situation.

No, the decision of the labour arbitration is compulsory.

Article 6§4

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake
and recognise

4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

Appendix to Article 6§4
It is understood that each Party may, insofar as it is concerned, regulate the exercise of the right to strike by law, provided that any further restriction that this might place on the right can be justified under the terms of Article G.

Who is entitled to take collective action?

Answers to the questions and conclusions of the European Committee of Social Rights:
The Committee notes that this is an improvement in the situation, however it asks whether when a trade union calls a strike it must seek the approval of the workers concerned.

As it was mentioned in the previous report: "A strike shall be declared if a corresponding decision is approved by secret ballot, as follows:

- 1) more than half of the employees of the enterprise voting in favour of declaring a strike in the enterprise;
- 2) more than half of the employees of the structural division of the enterprise voting in favour of declaring a strike in the structural division of the enterprise." (LC Article 77§1).

Therefore there is no need of further approval of workers concerned.

Answers to the questions and conclusions of the European Committee of Social Rights:
It also asks whether it is possible that there are enterprises where there is no trade union nor works council.

Yes, it is possible. It is rather easy to establish the work council; therefore it is possible to establish it just willing to strike.

Restrictions related to essential services/sectors

Answers to the questions and conclusions of the European Committee of Social Rights:
In order to be able to assess the conformity of the restrictions with Article 6§4 of the Revised Charter with reference to Article G, the Committee asked for information in the next report on what criteria are used to determine whether a minimum service should be introduced. It repeats its request for this information.

Now the criteria for the minimum service are agreed and determined by the parties to the collective dispute within three days after decision to declare a strike was made. They only inform about it in written the Government or the relevant municipal executive. The employer must be given an at least fourteen days' written notice in such cases.

Table 6.4.1. Strikes and Warning Strikes in 2005-2008

Strikes and warning strikes	**2009/2010/ 2011**	**2012**

Total	0	193
Education	0	193
Other community, social and personal service activities	0	0
Strikes		
Total	0	6
Education	0	6
Other community, social and personal service activities	0	0
Warning strikes		
Education	0	187

Article 21

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.

Scope

Answers to the questions and conclusions of the European Committee of Social Rights:

Consequently, the Committee asks whether this is the scope of Lithuania's legislation, particularly as regards the calculation of these minimum thresholds.

Under Article 47 of Labour Code, which regulates information and consultation, the employer must at least once per year provide information to the employees relating to the current and future activities of the enterprise and its economic and financial condition; information connected with labour relations. There are no minimum thresholds.

Table 21.1.

	2009	**2010**	**2011**	**2012**
Examined complaints and reports regarding collective labour relations	51	16	59	11
Established violations of concluding and performing a collective agreement	-	-	-	-

Article 22

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

a to the determination and the improvement of the working conditions, work organisation and working environment;

b to the protection of health and safety within the undertaking;

c to the organisation of social and socio-cultural services and facilities within the undertaking;

d to the supervision of the observance of regulations on these matters.

During the reporting period, concerning the legislative provisions pertaining to the right to take part in the determination and improvement of the working conditions and working environment and presented in the Seventh Report of the Republic of Lithuania on the Implementation of the European Social Charter (Revised), amendments were made only to Article 269 of the LC and Article 13 of the Law on Health and Safety at Work. Other Articles pertaining to the right to take part in the determination and improvement of the working conditions and working environment have not been amended.

During the reporting period from 1 January 2009 until 31 December 2012, taking in the account provisions, stated in Maritime Labour Convention, 2006, Article 269 of the LC was changed to ensure workers or their representatives, which are working on the ship, except a ship navigating exclusively in inland waters, in the territorial sea of the Republic of Lithuania or within the water area of state seaports of the Republic of Lithuania, which engages in commercial activities, except fishing vessels, traditional ships, naval ships, have the right to take part in the determination of working conditions and working environment.

To ensure seafarers right to take part in the in the determination and improvement of the working conditions and working environment, Article 13 of the Law on Health and Safety at Work was amended:

"Article 13. Workers' participation in implementing safety and health measures. Safety and Health Committees and workers' representatives:

1. The employer's representative, persons authorised by the employer must inform workers and consult with them on all issues concerning the state of occupational safety and health, the planning of its improvement, organisation, implementation and control of the measures. Occupational health and safety committees shall be set up and workers' representatives with specific responsibility for the safety and health of workers shall be appointed for the above-mentioned purpose. The employer's representative, heads of subdivision shall provide conditions for workers, workers' representatives with specific

responsibility for the safety and health of workers to take part in discussions concerning safety and health matters.

2. General Regulations of Occupational Health and Safety Committees shall be approved by the Minister of Social Security and Labour. An occupational safety and health committee (hereinafter referred to in this Article as the "committee") shall be set up and its work shall be organised in the following manner:

1) a committee is set up in those undertakings which employ 50 or more workers. If less than 50 workers are employed in an undertaking, the committee may be set up on the initiative of the employer or the workers' representative, or at the proposal of more than half of the workers of the undertaking. The General Regulations of Occupational Safety and Health Committees shall define the economic activity types in the undertakings of which there is a higher occupational risk and where it is recommended to set up a committee, if there are less than 50 workers employed in the undertaking;

2) a committee is set up if five or more workers are employed on the ship, except a ship navigating exclusively in inland waters, in the territorial sea of the Republic of Lithuania or within the water area of state seaports of the Republic of Lithuania, which engages in commercial activities, except fishing vessels, traditional ships, naval ships, (hereinafter referred to as a "ship"). A ship's committee shall be set up and its operation shall be organised in accordance with the procedure for setting up a committee and organising its operation laid down in subparagraphs 3-6 of this paragraph and in paragraphs 3 and 4;

3) a committee shall be formed on a bilateral principle - from an equal number of employer's representatives appointed by the employer or the person representing the employer (officers of the Administration of the undertaking) and the workers' representatives with specific responsibility for the safety and health of workers elected in the manner prescribed in paragraph 4 of this Article;

4) the activities of the committee are organised and it is chaired by the committee chairperson -- the employer's representative or the person authorised by the employer, who is appointed by the said representative. The chairperson shall organise the work of the committee. A workers' representative with specific responsibility for the safety and health of workers shall be elected Secretary of the committee;

5) the employer shall provide members of the committee with equipment necessary for carrying out their responsibilities as well as with information. At the periodicity provided for in the collective agreement of the undertaking the committee members shall be trained in educational institutions which render services related to training in the field of occupational safety and health in compliance with the General Regulations of Training and Testing of Knowledge in Safety and Health at Work, seminars or at the undertaking with the undertaking's funds. Newly appointed or elected committee members shall be trained at the educational institutions which render services related to training in the field of occupational safety and health in compliance with the General Regulations of Training and Testing of Knowledge in Safety and Health at Work. Issues related to the training of committee members shall be solved when concluding collective agreements;

6) for the time spent by a member of the committee performing the tasks related to safety and health at work, which are given to him, or for the time spent training, he must be paid an average salary.

3. Acting in compliance with the General Regulations of Occupational Safety and Health in Undertakings, the employer shall draw up regulations of the committee of the undertaking or the committee of the ship. After consultation with the workers' representatives, the employer's representative shall approve the said Regulations.

4. Acting in compliance with the regulations of the committee of the undertaking, the trade union of the undertaking and, if there is no trade union, other workers' representatives shall, in the meeting of the workers of the undertaking, organise elections of workers' representatives with specific responsibility for the safety and health of workers, followed by elections of members of the committee from the workers' representatives with specific responsibility for the safety and health of workers. Workers' representatives shall fix a number of a number of undertaking subdivisions and workers whom workers' representatives with specific responsibility for the safety and health of workers represent. If there are more than one workers' representative with specific responsibility for the safety and health of workers in an undertaking, one of them shall be elected senior workers' representative who co-ordinates activities of all workers' representatives with specific responsibility for the safety and health of workers. Not less than one workers' representative with specific responsibility for the safety and health of workers must be in each work shift. On the ship a workers' representative(s) with specific responsibility for the safety and health of workers and a member(s) of the ship's committee shall be elected in the meeting of the workers of the ship, in compliance with the regulations of the ship's committee.

5. Workers' representatives with specific responsibility for the safety and health of workers shall perform the following functions:

1) represent workers of an undertaking in the committee, participate in all measures to improve safety and health at work in the undertaking or at workstations, carried out by the employer, including the assessment of an occupational risk and implementation of the measures to eliminate and (or) decrease such risk;

2) participate in the selection and appointment by the employer's representative or the person authorised by the employer of workers responsible for first aid, organisation of rescue work, evacuation in the event of accidents, natural disasters or fire (prior to the appointment of such workers, the employer's representative shall consult the workers' representatives with specific responsibility for the safety and health of workers, upon their appointment the employer shall communicate to workers' representatives their workstations and responsibilities);

3) participate in providing the workers with necessary and appropriate personal protective equipment and controlling proper use thereof;

4) by order of the workers' representative, participate in investigation of accidents at work, occupational diseases and incidents;

5) upon the instruction of the employer's representative or the head of a subdivision, inform the workers about threat of or exposure to danger and about emergency actions to be taken in order to avert the danger, and helping to transfer the workers to safe locations.

6. Workers' representative with specific responsibility for the safety and health of workers shall have the right:

1) to propose and demand that head of the subdivision of an undertaking, the employer's representative should take necessary steps to ensure safety and health of workers at work;

2) to take part in the assessment of an occupational risk and planning preventive measures;

3) to approach the employer's employer if head of the subdivision fails to take necessary steps to ensure safety and health of workers at work. If the employer's representative fails to take measures to remove or mitigate risk factors, to inform the State Labour Inspectorate;

4) to receive all information on any issues related to safety and health at work from the head of the subdivision, the safety and health service and the safety and health committee in the undertaking.

7. The employer or the employer's representative shall furnish to workers' representatives with specific responsibility for the safety and health of workers the information necessary for safety and health, provide them with the necessary means and allow them adequate time off work to exercise the assigned functions deriving from paragraph 5 of this Article and the rights specified in paragraph 6 of this Article. The concrete number of working hours necessary to exercise their functions and rights shall be stipulated in employment contracts or collective agreements. For this period the said representatives shall be paid a salary in the amount not less than an average salary.

8. In exercising their functions laid down in paragraph 5 hereof, workers' representatives with specific responsibility for the safety and health of workers, in so far as they act in accordance with this law and other regulations on safety and health at work, shall not be subject to any financial disadvantage or administrative or other responsibility, as well as experience hostility of the employer's representatives, persons authorised by the employer or the workers.

9. The guarantees laid down in Article 134 of the Labour Code shall apply to the workers' representative with specific responsibility for the safety and health of workers. The authorisation of the workers' representative may be terminated or revoked by the workers' representative who elected him.

10. Workers' representatives shall be trained within the undertaking, at training seminars, relevant educational institutions which render services related to training in the field of safety and health at work in compliance with the General Regulations of Training and Testing of Knowledge in Safety and Health at Work, at the expense of the employer. During training they shall be entitled to receive average salary. Issues related to the training of workers' representatives with specific responsibility for the safety and health of workers shall be solved in the undertaking - by considering issues related to training of workers' representatives with specific responsibility for the safety and health of workers at the committee and when drawing up collective agreements.

11. Workers' representatives with specific responsibility for the safety and health of workers shall be obliged to keep any technological or commercial secrets which they may get to know when exercising their functions."

According to the Lithuanian courts information system LITEKO (www.teismai.lt), no cases on work conditions regulated by collective agreements were received and (or) resolved in the courts of Ist instance of the Republic of Lithuania in 2012. In the first half of 2013 year 1 case was received.

Organisation of social and socio-cultural services and facilities

Answers to the questions and conclusions of the European Committee of Social Rights:

The report confirms that in undertakings where social and cultural services or facilities are already established, employees may take part in setting them up. The Committee asks what the legal basis for this participation is. It also asks what the decision-making arrangements are for access to social and cultural facilities and if employers are required to fund such activities.

Under the National Programme for the Development of Corporate Social Responsibility for 2009-2013, adopted by the Resolution No 53 of 12 January 2010 of the Government of the Republic of Lithuania **corporate Social Responsibility** is the policy and practice of enterprises, whenever they following the laws, international agreements and the agreed norms of behaviour voluntary integrate social, environmental and transparent business principles into the internal processes of their activity and the external relationship. Enterprises together with the society and public sector partners are looking for the innovative solutions of the systematic social, environmental and wider economic welfare problems. According to the fact that corporate social responsibility is a very broad concept, employers are encouraged on a voluntary basis to arrange social and cultural facilities for their employees.

Article 26§1

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:
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;

In order to facilitate the application of the Law on Equal Opportunities for Women and Men, in particular application of the provisions on sexual harassment and harassment on the grounds of sex, the Amendments of this Law were prepared by the Ministry of Social Security and Labour. The amendments were accepted and the amended Law came into force in 2012. Main novelty of the Amendments – the new Article 6, entitled „Actions that Violate Equal Rights for Women and Men" was included into the Law.

This new article defines the scope of violations, including all forms of discrimination, which, according to Article 2 Paragraph 2 of the Law, includes sexual harassment, are considered a violation of the Law no matter where they occurred. It also defines the exceptions. Taking into account, that access to and supply of goods and services (consumers protection) is one of the application areas of the Law, the aforementioned Amendment is applied also for the persons outside the workplace, including contract/subcontract partners, e.g. self employed people, customers etc.

This article states that violation of equal rights for women and men shall be considered any actions or other behaviour by which a person is discriminated on grounds of sex, except of exhaustive list of cases. These exceptions are:

1. special protection of women during pregnancy, childbirth and nursing;
2. different cases for fulfilling military conscription for men and women;
3. different pensionable age for women and men, except of occupational pension schemes;
4. requirements for physical training, safety and health at work aimed at protecting the women's health owing to their physiological properties;
5. a certain job that can be performed only by a person of a particular sex, where, due to the nature of a specific professional activity or the conditions of its fulfilment, the sex is an essential (unavoidable) and determinant professional requirement, this treatment is legitimate and the requirement is appropriate (proportionate);
6. specific temporary measures set forth by laws, aimed at accelerating the guaranteeing of factual equal rights for women and men and which must be repealed upon implementation of equal rights and equal opportunities for women and men;
7. different procedure and conditions of implementation of certain penalties;
8. the sale of goods or the provision of services solely to, or in particular to, persons of one sex if it is justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary.

Damages

Answers to the questions and conclusions of the European Committee of Social Rights:

The Committee asks that the next report provides information on the kinds and amount of compensation. It also asks whether the right to reinstatement of employees who have been unfairly dismissed for reasons related to sexual harassment is guaranteed.

It's worth reminding that Lithuanian legislation provides for different types of legal liability (administrative, disciplinary, and criminal) for sexual harassment and harassment on the grounds of sex. Under Law of Equal opportunities (article 13) and the Civil Code (Articles 6.245-6.253) all victims of sexual harassment are now entitled to seek compensation for pecuniary and non-pecuniary damage suffered.

Article 300 (ex. Article 297 till 1 January 2013) of the Labour Code defines disputes relating to the employment contract:
"1. If an employee disagrees with changes to the principal conditions of the employment contract, suspension from work on the employer's initiative, dismissal from work, he shall be entitled to apply to the court within one month from the day of receipt of the appropriate notice (document). If it is established that the principal conditions of the employment contract were changed, the employee was suspended from work without a valid reason or in breach of laws, the violated rights of the employee must be restored and he must recover the average wage for the entire period of involuntary idle time or the difference in the wage for the time period of being employed in a lower paid job.
2. The demands of officers or bodies granted under law the right of suspension from work may be appealed against by the employer and the employee in accordance with the procedure established by laws.
3. **If an employee is dismissed without a valid reason or in violation of the procedure established by laws**, the court shall reinstate him in his previous job and award him the average wage for the entire period of involuntary idle time from the day of dismissal from work until the day of execution of the court decision.
4. **Where the court establishes that the employee may not be reinstated in his previous job due to economic, technological, organisational or similar reasons**, or because he may be put in unfavourable conditions for work, it shall take a decision to recognise the termination of the employment contract as unlawful and award him a severance pay in the amount specified in paragraph 1 of Article 140 of this Code as well as the average wage for the period of involuntary idle time from the day of dismissal from work until the effective date of the court decision. In this case the employment contract shall be considered terminated from the effective date of the court decision."

The Labour Code does not specify the concrete reasons, e.g. sexual harassment, for the dismissal.

In order to ensure a right of parties to employment relationships to high quality and more effective resolution of labour disputes, amendments to the Labour Code of the Republic of Lithuania (amendments entered into force on 1 January 2013) were adopted, **the mandatory procedure for adjudication of labour disputes under out-of-court procedure was changed.** There was established a mandatory pre-trial body, namely labour disputes commissions, which since 1 January 2013 act under the territorial units of the State Labour Inspectorate and are set up of employers, representatives of employees and a specialist of the State Labour Inspectorate.

More effective regulations on adjudication of labour disputes were adopted which have the following advantages: labour disputes commission is a less formalised phenomenon than

courts; therefore, in principle, a labour dispute is adjudicated more quickly than in court; a possibility to reconcile the parties at any stage; address to the labour disputes commission is free of charge for persons (decreased costs of employers and employees); higher competence of labour disputes commission (the requirement to have higher university education in law is set for the chairman, competent social partners); lower work load in courts; lower burden for business, since less complaints to monitoring authorities.

The information regarding the labour disputes on sexual harassment set in the labour disputes commissions will be provided in the next report. However, there is a legal basis for hearing these disputes in the commissions as **individual labour dispute, which** shall mean a disagreement between the employee and the employer regarding the exercise of the rights and the fulfilment of the duties established in labour laws, other regulatory acts, the employment contract or collective agreement, which shall be heard in accordance with the procedure laid down in Chapter XIX of the Labour Code.

Complaints received by the Office of Equal Opportunities Ombudsperson. During reference period (2009-2012) the Office of Equal Opportunities Ombudsperson of the Republic of Lithuania received 4 complaints about sexual harassment. In 3 cases investigation was terminated as there was a lack of objective evidence about the committed violation, in 1 case the complainant and offender conciliated. More information about activity of the Office of Equal Opportunities Ombudsperson is provided www.lygybe.lt.

Article 26§2

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:

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.

The Ministry of Social Security and Labour coordinated the implementation of the **National Anti-Discrimination Programme for 2009-2011** approved by Resolution No 317 of the Government of the Republic of Lithuania of 15 April 2009.

The purpose of this Programme – to nurture respect for a human being, to ensure the implementation of provisions of the legislation laying down the principle of non-discrimination and equal opportunities, to raise legal consciousness, to increase mutual understanding and tolerance on the grounds of gender, race, nationality, language, origin, social status, faith, convictions or views, age, sexual orientation, disability, ethnicity and religion, to raise public awareness of manifestations of discrimination in Lithuania and its negative impact on opportunities for certain groups of society to actively participate in public activities under equal conditions, and of safeguards of equal rights.

The Ministry of Social Security and Labour, the Ministry of Education and Science, the Ministry of Justice, the Ministry of Culture, the Ministry of the Interior, the Office of Equal Opportunities Ombudsperson and the Prosecutor General's Office contributed to the implementation of the Programme. When implementing the measures of the Programme, training in equal opportunities and non-discrimination was organised for employees of different institutions, civil servants, police officers and judges; discussions were held with non-governmental organisations concerned with the protection of human rights; an advertising campaign against multiple discrimination was conducted; a programme of non-formal education for target groups on tolerance and respect for a human being was drawn up; and statistics on criminal acts committed in hatred on the grounds of race, nationality, religion, language or sexual orientation were regularly released. Events promoting tolerance and knowledge of other cultures were also organised; methodical recommendations on peculiarities of organising, leading and conducting the pre-trial investigation of criminal acts committed on racial, nationalist, xenophobic, homophobic or other discriminatory grounds were produced; non-formal education about tolerance and respect for a human being was organised for members of youth associations; and research with regard to tolerance of different social groups by children aged 3 to 12 and possible manifestations of discrimination in comprehensive schools was carried out.

In order to ensure continuity of the Anti-Discrimination Programme, an **Inter-institutional Non-discrimination Action Plan 2012-2014** was approved by Resolution No 1281 of the Government of the Republic of Lithuania of 2 November 2011. The purpose of this Plan is to ensure the implementation of educational measures of non-discrimination promotion and equal opportunities, to raise legal consciousness, to increase mutual understanding and tolerance on the grounds of gender, race, nationality, language, origin, social status, faith, convictions or views, age, sexual orientation, disability, ethnicity and religion, to raise public awareness of manifestations of discrimination in Lithuania and its negative impact on

opportunities for certain groups of society to actively participate in public activities under equal conditions. Having regard to the versatile nature of non-discrimination promotion policy, other institutions (the Ministry of the Interior, the National Court Administration Training Centre, the Office of Equal Opportunities Ombudsperson, and the Prosecutor General's Office) also participate in the implementation of the Plan. The Ministry of Social Security and Labour is the coordinator of the implementation of the Plan.

One of the key programmes whose measures have a direct impact as regards the improvement of the quality of life of persons with disabilities, is **the National Program for the Social Integration of Persons with Disabilities 2010–2012** approved by the Government of the Republic of Lithuania by Resolution No 850 of 7 June 2002, which seeks to effectively develop the process of social integration of the disabled people and ensure enforcement of national and international legislation on the social integration of persons with disabilities. The Minister of Social Security and Labour by his Order No A1-194 of 17 May 2010 approved **the Action Plan for the National Programme for Social Integration of Persons with Disabilities 2010-2012**. The National Programme aims to promote equal opportunities for the disabled through social integration actions that meet country's international and domestic objectives and obligations, and through a relevant strategy for their implementation. The Strategy for the National Programme covers many areas of public life: public education, health care, medical rehabilitation, training of autonomous life skills, vocational rehabilitation, psychosocial rehabilitation, social services, education, social security, employment, culture, sport, recreation and family life. The aims of the National Programme are achieved through better legislation, central and regional programmes and measures, staff training and raising their competence, collaboration and consultation with associations of the disabled, collecting and analysing statistical and other information about persons with disabilities, their problems, and solutions to these problems, initiating and supporting social and economic research programmes.
In the framework of the National Programme, the measure of **funding of periodical and awareness-raising publications for the disabled people** and their distribution was carried out in pursuance of Order No A1-491 of the Minister of Social Security and Labour of the Republic of Lithuania of 19 October 2010 approving arrangements for funding of periodical and awareness-raising publications for the disabled people and their distribution. The goal of Project funding was to support publications important for the information of persons with disabilities. According to these arrangements, funding is available for publications related to social integration and equal opportunities with respect to persons with disabilities.

The implementation of the projects supporting activities of the associations of the disabled involves supporting activities related to: protection of the rights of the disabled by the nature of disability (representation, conferences, seminars, training events, international cooperation), development of professional qualification (development of professionals directly interacting with the disabled in the community, as well as managing skills development in the association staff), training of independent living skills, arrangement of workshops, camps, recreation, cultural and sporting events for the disabled, maintenance of reconstructed facilities or those under construction (involvement in checking the designs of buildings relevant for the disabled, and checking the compliance of the constructed facility with the relevant design solutions). To raise awareness, organizations of the disabled hold conferences, trainings, round table discussions on the rights, health care, civic movements of the disabled, access to information, etc.

Answers to the questions and conclusions of the European Committee of Social Rights:

The Committee asks that the next report provides information on the kinds and amount of compensation. It also asks whether the right to reinstatement of employees who have been unfairly dismissed for reasons related to sexual harassment is guaranteed.

The answer is provided under Article 26§1.

Article 28

With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that in the undertaking:

a they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;

b they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relations system of the country and the needs, size and capabilities of the undertaking concerned.

Protection of workers' representatives

Answers to the questions and conclusions of the European Committee of Social Rights:

The Committee refers to its interpretative statement in the General Introduction on the duration of protection for workers' representatives and wishes to be informed as to how long the protection for worker representatives lasts after the cessation of their functions.

Article 134 (1) of the Labour Code states that employees, who are elected to employee representative bodies, may not be dismissed from work under Article 129 of this Code without the prior consent of the body concerned **during the period for which they have been elected.** The chairman of the trade union or the works council may not be dismissed from work under paragraph 3(1) of Article 136 of the Labour Code during his term of office without the prior consent of the representative body of the trade union or the works council.

Under Article 134 (4) of the Labour Code the collective agreement may provide that the guarantee laid down in paragraph 1 of this Article shall also apply to other employees. In the cases specified in laws or collective agreements employees may not be dismissed from work without the consent of other bodies as well. According to Article 134 (5) the consent of the representative body of employees shall be effective until the expiry of the terms of notice of the termination of an employment contract as set in Article 130 of this Code.

According to the above mentioned, protection for workers' representatives lasts until the end of labour relations.

Facilities granted to workers' representatives

Answers to the questions and conclusions of the European Committee of Social Rights:

According to the report, when workers' representatives are required to travel because of their duties, they may be awarded financial compensation or time off in lieu. Employers also have the duty to fund training for workers' representatives to perform their duties. No fewer than three days per year must be set aside for training unless stated otherwise in collective agreements. The Committee refers to its interpretative statement on the facilities to be granted to workers' representatives in the general introduction as well as to its question on travelling expenses and asks the next report to provide all the necessary information.

Despite the fact that the Labour Code does not include specific statements concerning the facilities to be granted to workers' representatives as well as travelling expenses, these

questions could be settled in the collective agreements. Moreover, under Article 220 (1) of the Labour Code the employees posted to perform work shall be guaranteed that during the period of the posting they shall retain their job (position) and wage. Moreover, they shall be paid per diem and reimbursed the costs relating to the posting. This guarantee could be ensured for workers' representatives if the employer and worker's representative agree.

Furthermore, new paragraph 5 of Article 13 of the Law on the Trade Unions (entered into force on 28 June 2013) provides that workers' representatives shall be excluded from work at least 60 working hours per year to perform their duties, if it is not settled otherwise in the collective agreements. They are paid their average wage for this period.

Article 29

With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example by recourse to accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

According to LITEKO, there were 137 cases on dismissal of workers received in the Ist instance courts. In the first half of 2013 year 68 such cases were received.

Table 29.1. Cases in the Ist instance courts of the Republic of Lithuania:

Case category	I half year of 2013		2012	
	Received cases	Resolved cases	Received cases	Resolved cases
Termination of labour agreement due to the reasons that do not fall within the power of the worker	17	24	47	47
Termination of labour agreement due to the initiative of the employer, when there is no fault of the worker	28	30	41	56
Not falling within the restrictions on the termination of labour agreement	1	1	2	2
Termination of the labour agreement without a notice	20	23	43	67
Preference right to be left to work when the number of the employees is decreased	1	0	2	3
Safety and health of the workers	1	2	2	4

Definitions and scope

Answers to the questions and conclusions of the European Committee of Social Rights:

The Committee asks whether the Lithuanian law provides for any exceptions for certain categories of workers or enterprises as to the procedures applied in the case of collective redundancies.

There are no exceptions for certain categories of workers or enterprises as to the procedures applied in the case of collective redundancies in the Lithuanian law.

Prior information and consultation

Answers to the questions and conclusions of the European Committee of Social Rights:

Under Article 29, consultation procedures must take place in good time, before the redundancies, in other words as soon as the employer contemplates making collective redundancies. The report mentions a 30 days period between plans of the employer for collective redundancies and the dismissal of the employees. The Committee asks if the Lithuanian legislation provides for periods of time between the consultation procedures and the redundancies.

There are no periods of time between the consultation procedures and the redundancies established in Lithuanian law, but general rules for notice of the termination of an employment contract are applicable: an employer shall be entitled to terminate an employment contract by giving the employee against signature written notice two months in advance (article 130 of LC) or four months in advance in case of an employment contract with employees, who will be entitled to the full old age pension in not more than five years, persons under 18 years of age, disabled persons and employees raising children under 14 years of age (article 129 (4)).