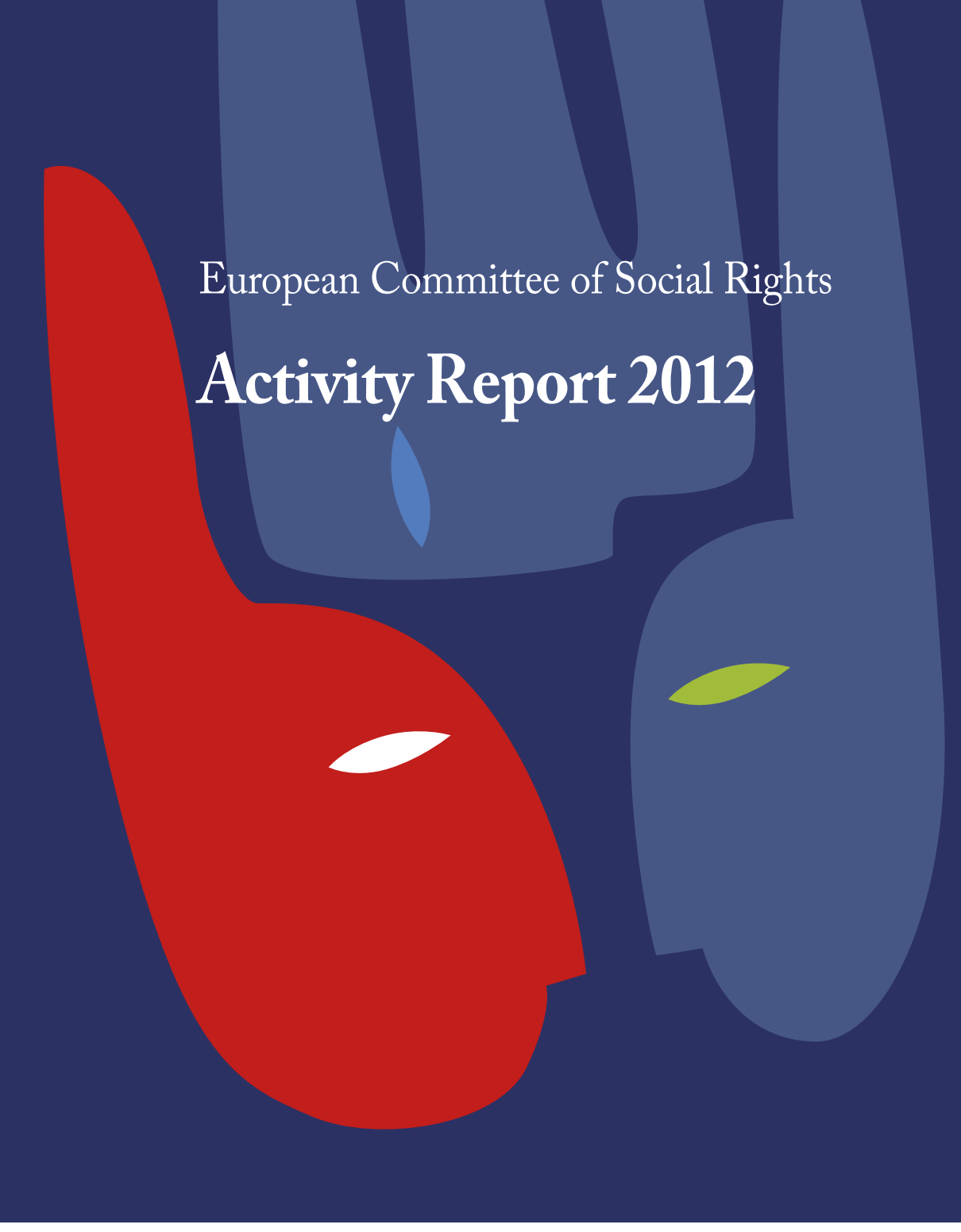

European Committee of Social Rights

Activity Report 2012

European Social Charter | Charte Sociale Européenne

COUNCIL OF EUROPE | CONSEIL DE L'EUROPE

European Committee of Social Rights

Activity Report 2012

Council of Europe
April 2013

French edition:

Rapport d'activités 2012

The European Committee of Social Rights rules on the conformity of the situation in States with the European Social Charter. The Committee adopts "conclusions" in respect of national reports submitted annually by the States Parties, and it adopts "decisions" in respect of collective complaints lodged by organizations.

The Committee is composed of 15 independent, impartial members who are elected by the Committee of Ministers of the Council of Europe for a term of office of six years, renewable once.

Cover and Layout: SPDP, Council of Europe

Printed at the Council of Europe

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Introduction

The European Social Charter and its 51st anniversary

All the anniversaries of the Social Charter are very important. 2012 saw the 51st anniversary of the 1961 Charter and the 16th anniversary of the 1996 Revised Charter. 2012 was also the 12th year of intense activity and steadfast commitment on the part of three Committee members whose terms of office expired in December 2012: Jean-Michel Belorgey, Csilla Kollonay-Lehoczky and Andrzej Swiatkowski. On account of their outstanding human qualities and professional talents, they leave the Committee a vast legacy which should be given lasting recognition.

This annual activity report shows that the work carried out by the Social Charter Department and the European Committee of Social Rights has become more prominent, more robust and, above all, more effective where it comes to protecting human dignity. From this viewpoint, while the celebrations for the 50th anniversary of the 1961 Charter and the 15th anniversary of the Revised Charter in 2011 showed the enormous potential for mobilising all those involved in actually implementing the Charter, the Committee's work in 2012 showed that taking advantage of the good excuse to organize occasional festivities is worthwhile only if it serves ultimately to satisfy everyday needs.

The case law built up by the Committee through both its reporting procedure (focusing on employment, training and equal opportunities under Articles 1, 9, 10, 15, 18, 20, 24 and 25) and its collective complaints mechanism (centering on austerity and flexibility measures in response to the economic crisis or privatisation measures – Complaints Nos. 65, 66 and 73 – and the situation of vulnerable people – Complaints Nos. 62, 64 and 67) reflects this response to the daily needs of millions of people in Europe.

These examples of case law also show that while diverse approaches to securing fundamental rights may be acceptable, they must always respect human dignity. Accordingly, even though it is legitimate to reorganize budgets to cope with the economic crisis, this should not excessively destabilise the situations of those who enjoy the rights enshrined in the Charter. The crisis has shown that one-track thinking is not the solution. The Committee's work is based more on a multifaceted yet unidirectional approach. On the one hand, this approach caters for a degree of national discretion in the way of handling the array of solutions that can be applied to the mobility and diversification of the labour market and to persons with special lifestyles, while making this compatible with the positive obligations deriving from international undertakings made in keeping with the Charter. On the other,

it is guided by a way of thinking that is prepared to take account of other national or international standards, the common feature of which should be to apply the most "favourable treatment … to the persons protected" (as required by Article H of the Revised Charter – Article 32 of the 1961 Charter – or, with the same multi-faceted approach and taking the same direction, by Article 53 of the European Convention on Human Rights or Article 53 of the Charter of Fundamental Rights of the European Union).

Unfortunately, the economic crisis has made economic parlance more popular than the legal parlance of human rights. Yet, the two should be compatible, as economic resources should be at the service of people. The European Committee of Social Rights has argued therefore that the Social Charter (a legal human rights instrument and an international treaty) obliges states not only to take legal action but also to make sufficient resources available and to be particularly mindful of the impact that their choices will have on the most vulnerable people in order to give full effect to the rights enshrined in the treaty.

Our actions should be in keeping with this approach. For example, we should be placing economic jargon at the service of the Social Charter in its role as a living instrument for the protection of fundamental rights. When we talk of "expansion projects and enlargement", we should be insisting on a real Council of Europe strategy to extend the Charter's sphere of activity so that certain states can pay their "European debts", in other words that the Council of Europe member states which have not yet accepted the collective complaints procedure or the revised Charter can do so in keeping with the Committee of Ministers' Declaration of 12 October 2011 on the 50th anniversary of the Charter. In 2012 only one country – the Czech Republic – accepted the collective complaints procedure – as a preventive mechanism linked to a notion of "early-warning dynamics". On the other hand, the Social Charter could legitimately be regarded as the ultimate "European Stability Pact" in so far as its main purpose is not to empower the European Committee of Social Rights to find against Contracting Parties for infringing the rights enshrined in the Charter but to generate "annual returns", in other words the benefit of the legitimisation and validation of national situations by the Committee through findings of conformity and decisions that there has been no violation.

Lastly, the Social Charter's "stakeholders" are not just the Social Charter Department and the European Committee of Social Rights. They are all the parties involved in its effective implementation, expressing a positive desire, a supportive attitude and a spirit of dialogue (in the institutional, judicial, academic, social and communications fields) in favour of this common cause both within the Council of Europe and outside (in the European Union, the UN and the ILO), together with people from the media, universities and other academic institutions, national institutions (including judicial bodies), the social partners and civil society. The interactions of the Charter Department and the Committee with all these partners in 2012 is reflected in this activity report. Let us prepare ourselves to celebrate a positive and fruitful outcome to the European Committee of Social Rights' activities in 2013 on

the occasion of the 52nd anniversary of the 1961 Charter and the 17th anniversary of the 1996 Revised Charter, being fully aware of and taking full responsibility for the fact that, at all events, the Social Charter's majority stakeholders are the millions of human beings who benefit from it.

Luis Jimena Quesada
President of the Committee

2012 activities of the European Committee of Social Rights

1. Overview

The European Committee of Social Rights[1] conducts its supervision of state compliance within two distinct but inter-related procedures: the reporting procedure where it examines written reports submitted by States Parties with regular intervals and the collective complaints procedure which allows certain national and international organizations to lodge complaints against States Parties that have accepted to be bound by this procedure. In respect of state reports, the Committee adopts "conclusions" and in respect of collective complaints it adopts "decisions".

In 2012, the Committee held 7 sessions in Strasbourg:

- Session 255: 23-25 January 2012
- Session 256: 19-23 March 2012
- Session 257: 21-25 May 2012
- Session 258: 25-29 June 2012
- Session 259: 10-14 September 2012
- Session 260: 22-26 October 2012
- Session 261: 3-7 December 2012.

As for the procedure on collective complaints, the Committee in 2012 declared 9 complaints admissible and adopted decisions on the merits in 15 complaints concerning, inter alia, the effects of austerity measures on social rights, the protection of health and the rights of Roma (see Chapter 3 and Appendix 5).

The Committee examined reports presented by 42 States Parties describing how they implement the Charter in law and in practice as regards the provisions belonging to the thematic group of provisions concerning employment, training and equal opportunities: Articles 1, 9, 10, 15, 18, 20, 24 and 25 (see Chapter 4 for a detailed presentation).

The procedure on non-accepted provisions concerned concerned the following four States Parties: Albania, Finland, Portugal and Turkey.

Additional provisions were accepted by Estonia (see Chapter 5).

1. The current composition of the Committee appears in Appendix 1.

According to the decision made in 2011, in the framework of the 50th anniversary of the Charter, on the strengthening of the co-operation between the Committee and the relevant committees of the Parliamentary Assembly, the Committee transmitted to the Assembly a selection of conclusions of non-conformity whose effective follow-up and implementation required national parliaments and governments to take appropriate legislative measures (see Appendix 7).

The Committee formulated comments on several texts submitted to it by the Committee of Ministers, in particular this concerned recommendations by the Parliamentary Assembly (these comments are reproduced in Appendix 8).

In the framework of its sessions, the Committee held meetings with representatives of several Council of Europe bodies, with representatives of other international bodies, including an exchange of views with the EU Fundamental Rights Agency and the annual exchange of views with the international Labour Organization.

Delegations of the Committee held bilateral meetings with a number of countries in 2012 to conduct discussions with their authorities, in particular as regards:

- the Committee's findings in previous supervision cycles and the assessment in the current cycle of those countries' policies concerning their Charter undertakings;
- the non-accepted provisions of the Charter (the procedure laid down by Article 22 of the 1961 Charter, see also Chapter 5)
- the preparation of ratification of the Revised Charter and the collective complaints procedure for States that have not yet done so.

Finally, the Committee was represented at numerous international conferences and seminars on human rights-related issues. Lists of these various meetings appear in Appendices 10 and 11.

2. Election of members to the Committee by the Committee of Ministers

The composition of the Committee is governed by Article 25 pursuant to which its 15 members (see Appendix 1) are appointed by the Committee of Ministers for mandates of six years, renewable once[2]. Members shall be "independent experts of the highest integrity and of recognized competence in international social questions". Election takes place every second year with a third of the seats (5) being up for election.

At the 1156th and 1158th meetings of the Ministers' Deputies on 28 November 2012 and 11 December 2012, respectively, the Committee of Ministers held an election to fill the five seats falling vacant on 31 December 2012. Ms Monika Schlachter

2. It is recalled that pursuant to Article 3 of the Turin Protocol members shall be elected by the Parliamentary Assembly. However, this provision is the only one which is still not being applied in practice (pending the formal entry into force of the Protocol).

(German) and Ms Birgitta Nyström (Swedish) were elected for a second term and Ms Eliane Chemla (French), Mr Jozsef Hajdu (Hungarian) and Mr Marcin Wujczyk (Polish) were elected as new members for a first term of office. The term of office for these five members begins on 1 January 2013 and ends on 31 December 2018.

The Committee wishes to express its appreciation and gratitude to the three outgoing members, Ms Csilla Kollonay-Lehoczky (Hungarian), Mr Jean-Michel Belorgey (French) and Mr Andrzej Swiatkowski (Polish) for their contribution to the Committee's work and for their tireless efforts to promote social rights. Ms Kollonay-Lehoczky took up office in 2001 and served as a very active member of the Committee for two terms. Mr Belorgey was President of the Committee from 2002 to 2006 before serving as General Rapporteur until his departure. Mr Swiatkowski joined the Committee in 2003 and was a Vice-President from 2005 to 2011.

On 6 December 2012 a seminar in honour of the three outgoing members was organized in Strasbourg on the topic of the Charter and the discretion of States (see also Appendix 11).

3. Collective complaints procedure

The Additional Protocol of 1995 providing for a system of collective complaints came into force on 1 July 1998. On the 4 April 2012, the Czech Republic ratified this Protocol bringing to fifteen the number of member States of the Council of Europe bound by the Protocol.

Over the period 1998-2012, the European Committee of Social Rights received 88 collective complaints. The Committee, as a quasi-judicial body, issued 155 decisions, and among them 82 decisions on admissibility, 72 decisions on the merits and 1 decision to strike out a complaint.

Again, in 2012, the Committee experienced a large increase in the number of complaints with 13 new complaints registered during this reporting period. In the course of its 7 sessions in 2012, the Committee adopted 15 decisions on the merits and 9 decisions on admissibility.

In February 2012, the Committee of Ministers instructed its Group of Rapporteurs on social and health issues (GR-SOC) to follow up on the decisions of the European Committee of Social Rights in the context of the system of collective complaints. The Committee of Ministers adopted 3 resolutions concerning 3 complaints

The 13 complaints registered in 2012 were lodged against 7 countries: Greece (5), France (3), Ireland (1), Sweden (1), Netherlands (1), Italy (1) and Finland (1). 7 complaints come from national trade unions, 5 come from international non-governmental organizations and 1 complaint was filed by a national organization (Finland is so far the only country to have recognized the right of national NGOs to lodge complaints against it).

The time required to process the complaints by the Committee in 2012 remained within the established deadlines (6 months for the admissibility and 1 year for the merits). The average duration of the admissibility stage was 4,7 months and the average duration of the merits stage was 9,8 months.

The 15 decisions on the merits adopted by the Committee are the following :

On 24 January 2012, the Committee adopted its decision on the merits in the case European Forum for Roma and travellers (ERTF) v. France (No 64/2011).

The European Roma and Travellers Forum maintained that Travellers and Roma of Romanian and Bulgarian origin suffer systematic discrimination in France in breach of Article E (on non-discrimination) of the Charter with regard to the enjoyment of their right to housing (Articles 31 and 16 of the Charter) because of their particularly insecure housing conditions, the way in which they are evicted from their homes and the difficulties they face when they attempt to acquire social housing and claim housing benefits. It also asserted that the expulsion of Roma of Romanian and Bulgarian origin from France constitutes unequal treatment in the enjoyment of the right to safeguards with regard to expulsion from a territory (Article 19§8 of the Charter). Lastly, it argued that there is a violation of the right to protection against poverty and social exclusion (under Article 30 of the Charter) because of the conditions in which Travellers are authorised to exercise their right to vote.

In its decision on the merits, the Committee concluded, unanimously that there is a violation:

- of Article E taken in conjunction with Article 19§8 concerning Roma of Romanian and Bulgarian origin;
- of Article E taken in conjunction with Article 30 concerning Travellers;
- Article E taken in conjunction with Article 31§1 concerning Travellers and Roma of Romanian and Bulgarian origin;
- of Article E taken in conjunction with Article 31§2 concerning Travellers and Roma of Romanian and Bulgarian origin;
- of Article E taken in conjunction with Article 31§3 concerning persons choosing to live in caravans;
- of Article E taken in conjunction with Article 16 concerning the families of Travellers and the families of Roma of Romanian and Bulgarian origin.

The decision became public on 4 June 2012. The Committee of Ministers adopted the resolution CM/ResChS(2013)1 on 5 February 2013.

On 21 March, 2012, the Committee adopted its decision on the merits in the case International Federation of Human Rights (FIDH) v. Belgium (No. 62/2010).

The FIDH alleged a violation of the rights to housing for Travellers under the Charter. The complaint concerns the inadequate number of public sites accessible to Traveller families, whether in the form of permanent or temporary residential

sites or ad hoc places and the failure of urban planning legislation to take account of Travellers' specific needs or circumstances, which, in practice, makes it difficult to set up public caravan sites for Travellers, disproportionately restricts their ability to obtain planning permission to live in their caravans on private property and excessively restricts temporary parking possibilities.

In its decision on the merits, the Committee concluded:

- unanimously that there is a violation of Article E read in conjunction with Article 16 because of the failure in the Walloon Region to recognize caravans as dwellings; and the existence, in the Flemish and Brussels Regions, of housing quality standards relating to health, safety and living conditions that are not adapted to caravans and the sites on which they are installed;
- unanimously, that there is a violation of Article E read in conjunction with Article 16 because of the lack of sites for Travellers and the state's inadequate efforts to rectify the problem;
- unanimously, that there is a violation of Article E read in conjunction with Article 16 because of the failure to take sufficient account of the specific circumstances of Traveller families when drawing up and implementing planning legislation;
- unanimously, that there is a violation of Article E read in conjunction with Article 16 because of the situation of Traveller families with regard to their eviction from sites on which they have settled illegally;
- by 11 votes to 4, that there is no violation of Article E read in conjunction with Article 16 concerning the situation of Travellers with regard to domiciliation;
- unanimously, that there is a violation of Article E read in conjunction with Article 30 because of the lack of a co-ordinated overall policy, in particular in housing matters, with regards to Travellers in order to prevent and combat poverty and social exclusion.

A dissenting opinion was expressed by four members of the Committee.

The decision became public on 31 July 2012.

On 23 May 2012, the Committee adopted its decision on the merits in the case: General Federation of employees of the national electric power corporation (GENOP-DEI) and Confederation of Greek Civil Servants Trade Union (ADEDY) v. Greece (No. 65/2011).

GENOP-DEI and ADEDY alleged that the situation in Greece was not in conformity with Article 4 (right to a fair remuneration) of the 1961 Charter with Article 3 of the Additional Protocol of 1988 (right to take part in the determination and the improvement of the working conditions, work organization and working environment).

In its decision on the merits, the Committee concluded:

- unanimously that there has been a violation of Article 4§4 of the 1961 Charter on the ground that Article 17§5 of the Act 3899 of 17 December 2010 does not allow delays of notice or severance pay in cases of termination of a contract of employment described by as "permanent contract" during a probationary period that extends to one year;
- by 14 votes to 1 that Article 3§1a of the 1988 Additional Protocol to the 1961 Charter is not applicable.

The decision became public on 19 October 2012. The Committee of Minister adopted the resolution CM/ResChS(2013)2 on 5 February 2013.

On 23 May 2012, the Committee adopted its decision on the merits in the case: General Federation of employees of the national electric power corporation (GENOP-DEI) and Confederation of Greek Civil Servants Trade Union (ADEDY) v. Greece (No. 66/2011).

The GENOP-DEI and ADEDY alleged that the situation in Greece was not in conformity with Articles 1 (right to work), 4 (right to a fair remuneration), 7 (right of children and young persons to protection), 10 (right to vocational training) and 12 (right to social security) of the 1961 Charter.

In its decision on the merits, the Committee concluded:

- unanimously that there is no violation of Article 1§1 of the 1961 Charter;
- unanimously that there is no violation of Article 7§§ 2 and 9 of the 1961 Charter;
- unanimously that there is a violation of Article 7§7 of the 1961 Charter;
- unanimously that there is a violation of Article 10§2 of the 1961 Charter;
- unanimously that there is a violation of Article 12§3 of the 1961 Charter;
- unanimously that there is a violation of Article 4§1 of the 1961 Charter in the light of the non-discrimination clause of the Preamble to the 1961 Charter.

The decision became public on 19 October 2012. The Committee of Ministers adopted the resolution CM/ResChS(2013)2 on 5 February 2013.

On 11 September 2012, the Committee adopted its decision on the merits concerning the case *Médecins du Monde* v. France (No. 67/2011)

The complaint presented by *Médecins du Monde* – International was registered on 19 April 2011. *Médecins du Monde* alleged that the Roma, mostly from countries of the European Union, living in France in extreme poverty, are denied the rights to housing, education for their children, social protection and health care, in breach of articles 11, 13, 16, 17, 19§8, 30 and 31 of the Charter read alone and/or in conjunction with Article E.

For these reasons, the Committee concluded unanimously that:

- there is a violation of Article E read in conjunction with Article 31§1 because of a too limited access to housing of an adequate standard and degrading housing conditions for migrant Roma lawfully resident or working regularly in France;
- there is a violation of Article E read in conjunction with Article 31§2 because of the eviction procedure of migrant Roma from the sites where they are installed;
- there is a violation of Article E read in conjunction with Article 31§2 because of a lack of sufficient measures to provide emergency accommodation and reduce homelessness of migrant Roma;
- there is no violation of Article E read in conjunction with Article 16 as concerns the family benefits provided to the migrant Roma not residing lawfully or working regularly in France;
- there is a violation of Article E read in conjunction with Article 16 because of a lack of sufficient measures to provide housing to families of migrant Roma residing lawfully or working regularly in France;
- there is a violation of Article E read in conjunction with Article 30 because of insufficient measures to promote effective access to housing to migrant Roma residing lawfully or working regularly in France;
- there is a violation of Article E read in conjunction with Article 19§8 because of breaches in the expulsion procedure of migrant Roma;
- there is a violation of Article E read in conjunction with Article 17§2 because the French education system is both not sufficiently accessible;
- there is a violation of Article E read in conjunction with Article 11§1 because of difficulties of access to health care for migrant Roma, whatever their residence status;
- there is a violation of Article E read in conjunction with Article 11§2 because of a lack of information and awareness-raising and of counseling and screening on health issues towards migrant Roma;
- there is a violation of Article E read in conjunction with Article 11§3 because of a lack of prevention of diseases and accidents of migrant Roma;
- there is a violation of Article E read in conjunction with Article 13§1 because of a lack of medical assistance for migrant Roma lawfully resident or working regularly in France for more than three months;
- there is a violation of Article 13§4 because of a lack of medical assistance for migrant Roma lawfully resident or working regularly in France for less than three months;
- there is no violation of Article 13§4 concerning migrant Roma not residing lawfully or not working regularly in France with regard to emergency medical assistance.

The decision became public on 21 January 2013.

On 12 September 2012, the Committee adopted its decision on the merits in the case *Syndicat de Défense des Fonctionnaires* v. France (No. 73/2011).

The complaint alleged that the so-called redeployed civil servants employed by *France Télécom* and *La Poste* did not enjoy several of the rights provided for in the revised European Social Charter, namely the right to information (Article 2§6), the right to social security (Article 12) and the right to non-discrimination in one's career (Articles 20 and E).

In its decision on the merits, the Committee concluded unanimously:

- that the complaint that *France Télécom* and *La Poste* failed to comply with the rules on information with regard to the promotion of redeployed civil servants does not fall within the scope of Article 2§6 of the Charter;
- that there is no violation of Article 12 of the Charter;
- that the complaint concerning the discriminatory management of internal promotions in the corps of redeployed civil servants at *France Télécom* and *La Poste* falls neither within the scope of Article 20 nor, consequently, within that of Article E read in conjunction with Article 20;
- that there is no violation of Article 1§2 of the Charter.

The decision became public on 28 November 2012. The Committee of Ministers adopted the resolution CM/Res ChS(2012)6.

On 23 October 2012, the Committee adopted its decision on the merits in the case European Council of Police Trade Unions (CESP) v. France (No. 68/2011).

The CESP alleged that the regulations introduced by the French Government since April 2008 are in violation of Article 4§2 of the revised European Social Charter on the ground that they do not provide for compensation for overtime by the senior officers of the national police command corps.

In its decision on the merits, the Committee concluded unanimously that there is a violation of Article 4§2 of the Charter.

The decision became public on 6 March 2013.

On 23 October 2012, the Committee adopted its decision on the merits in the case Defence for Children International (DCI) v. Belgique (No. 69/2011).

DCI alleged that unaccompanied foreign minors unlawfully present or seeking asylum and illegally resident accompanied foreign minors are denied the rights to its full development, social, health, legal and economic protection, social and medical assistance and protection against poverty, in breach of articles 7§10, 11, 13, 16, 17 and 30 of the Charter read alone or in conjunction with Article E. Even though they are legally entitled to receive social assistance in Belgium, they are currently being denied such assistance in practice.

In its decision on the merits, the Committee concluded:

- unanimously that there is a violation of Article 17 of the Charter;
- unanimously that there is a violation of Article 7§10 of the Charter;
- by 13 votes to 1, that there is a violation of Article 11 §§1 and 3 of the Charter;
- by 11 votes to 3, that there is no violation of Article 13 of the Charter;
- unanimously that Article 30 of the Charter does not apply in the instant case;
- unanimously that Article E of the Charter does not apply in the instant case.

The decision became public on 21 March 2013.

On 4 December 2012, the Committee adopted its decision on the merits in the case The Central Association of careers in Finland v. Finland (No. 70/2011).

The Association took the decision to change its name from "the Association of Care Giving Relatives and Friends " to "The Central Association of Carers in Finland". The Association alleged that Finland violates the right of elderly persons to social protection, in breach of Article 23 of the Charter. It alleged that the right of elderly persons to social protection is violated on the grounds that informal careers are in an unequal position depending where in Finland they live.

In its decision on the merits, the Committee concluded unanimously that there is a violation of Article 23 of the Charter.

The decision became public on 22 April 2013.

On 4 December 2012, the Committee adopted its decision on the merits in the case The Central Association of careers in Finland v. Finland (No. 71/2011).

The Association took the decision to change its name from "the Association of Care Giving Relatives and Friends" to "The Central Association of Carers in Finland". The Association alleged that Finland violates the right of elderly persons to social and medical assistance, social services and social, legal and medical protection, in breach of Articles 13, 14, 16 and 23 of the Charter.

In its decision on the merits, the Committee concluded:

- unanimously that there is a violation of Article 23 of the Charter;
- unanimously that no separate issues arise under Article 14§1 of the Charter;
- unanimously that Articles 13 and 16 of the Charter are not applicable.

The decision became public on 22 April 2013.

On 7 December 2012, the Committee adopted its decision on the merits in the case Federation of employed pensioners of Greece (IKA-ETAM) v. Greece (No. 76/2011).

The complainant trade union alleged that certain regulations introduced by the Government of Greece from May 2010 onwards (namely Act No. 3845 of 6 May 2010, Act No. 3847 of 11 May 2010, Act No. 3863 of 15 July 2010, Act No. 3865 of 21 July 2010, Act No. 3896 of 1 July 2011 and Act No. 4024 of 27 October 2011)

modifying both public and private pension schemes are in violation of Articles 12§3 and 31§1 of the 1961 Charter.

In its decision on the merits, the Committee concludes unanimously that there is a violation of Article 12§3 of the 1961 Charter.

The decision became public on 22 April 2013.

On 7 December 2012, the Committee adopted its decision on the merits in the case Panhellenic Federation of Public Service Pensioners (POPS) v. Greece (No. 77/2011).

The complainant trade union alleged that certain regulations introduced by the Government of Greece from May 2010 onwards (namely Act No. 3845 of 6 May 2010, Act No. 3847 of 11 May 2010, Act No. 3863 of 15 July 2010, Act No. 3865 of 21 July 2010, Act No. 3896 of 1 July 2011 and Act No. 4024 of 27 October 2011) modifying both public and private pension schemes are in violation of Articles 12§3 and 31§1 of the 1961 Charter.

In its decision on the merits, the Committee concluded unanimously that there is a violation of Article 12§3 of the 1961 Charter.

The decision became public on 22 April 2013.

On 7 December 2012, the Committee adopted its decision on the merits in the case Pensioners'Union of the Athens-Piraeus-Electric-Railways (I.S.A.P.) v. Greece (No. 78/2011).

The complainant trade union alleged that certain regulations introduced by the Government of Greece from May 2010 onwards (namely Act No. 3845 of 6 May 2010, Act No. 3847 of 11 May 2010, Act No. 3863 of 15 July 2010, Act No. 3865 of 21 July 2010, Act No. 3896 of 1 July 2011 and Act No. 4024 of 27 October 2011) modifying both public and private pension schemes are in violation of Articles 12§3 and 31§1 of the 1961 Charter.

In its decision on the merits, the Committee concluded unanimously that there is a violation of Article 12§3 of the 1961 Charter.

The decision became public on 22 April 2013.

On 7 December 2012, the Committee adopted its decision on the merits in the case Panhellenic Federation of pensioners of the Public Electricity Corporation (POS-DEI) v. Greece (No. 79/2011).

The complainant trade union alleged that certain regulations introduced by the Government of Greece from May 2010 onwards (namely Act No. 3845 of 6 May 2010, Act No. 3847 of 11 May 2010, Act No. 3863 of 15 July 2010, Act No. 3865 of 21 July 2010, Act No. 3896 of 1 July 2011 and Act No. 4024 of 27 October 2011) modifying both public and private pension schemes are in violation of Articles 12§3 and 31§1 of the 1961 Charter.

In its decision on the merits, the Committee concluded unanimously that there is a violation of Article 12§3 of the 1961 Charter.

The decision became public on 22 April 2013.

On 7 December 2012, the Committee adopted its decision on the merits in the case: Pensioners' Union of the Agricultural Bank of Greece (ATE) v. Greece (No. 80/2011).

The complainant trade union alleged that certain regulations introduced by the Government of Greece from May 2010 onwards (namely Act No. 3845 of 6 May 2010, Act No. 3847 of 11 May 2010, Act No. 3863 of 15 July 2010, Act No. 3865 of 21 July 2010, Act No. 3896 of 1 July 2011 and Act No. 4024 of 27 October 2011) modifying both public and private pension schemes are in violation of Article 12§3 and 31§1 of the 1961 Charter.

In its decision on the merits, the Committee concluded unanimously that there is a violation of Article 12§3 of the 1961 Charter.

The decision became public on 22 April 2013.

Examples of the impact of the Committee's decisions

In 2012, the collective complaints procedure had yet a significant impact on the law and practice of the States Parties. The Committee noted inter alia the following examples:

• **Bulgaria:** In response to the Committee's criticism regarding the general ban of the right to strike in the electricity, healthcare and communications sectors changes have been made to the Settlement of Collective Labour Dispute Act, promulgated in the "State Gazette" No. 87/27.10.2006 concerning the right to strike of some categories of workers and employees. Until the amendment of the Collective Labour Dispute Act, Section (16)4 denied the right to strike of workers in production, distribution and supply of energy, communications and healthcare. After the latest changes in the law these restrictions were revoked. This information already provided in 2008, allowed the adoption of the Committee of Ministers Resolution in 2012.

Resolution Res ChS (2012)4 - 10 October 2012. Confederation of Independent Trade Unions in Bulgaria (CITUB), Confederation of Labour "Podkrepa" (CL "Podkrepa") and European Trade Union Confederation (ETUC) v. Bulgaria, Complaint No. 32/2005).

• **Belgium:** In response to the Committee's criticism that Belgian statutory law does not recognize the right to strike guaranteed by Article 6§4 of the Charter, the Belgian Government is committeed to studying, in consultation with the social partners, what follow-up action might be taken on the Committee's report. In addition, the Minister of Justice will be invited to draw the judicial authorities' attention to the findings of the Committee's report.

Resolution CM/ResChS (2012)3 – 4 April 2012, (European Trade Union Confederation (ETUC), *Centrale générale des syndicats libéraux de Belgique*

(CGSLB), *Confédération des syndicats chrétiens de Belgique* (CSC) and *Fédération générale du travail de Belgique (FGTB)* v. Belgium, Complaint No. 59/2009

A list of complaints pending before the European Committee of Social Rights as of 31 December 2012, as well as of the Resolutions adopted by the Committee of Ministers in 2012 on the follow-up to the decisions on the merits of the complaints is attached to this report as Appendix 4.

4. Reporting procedure

In 2012, the Committee examined state reports on the application of provisions belonging to the thematic group "Employment, training and equal opportunities":

- the right to work (Article 1);
- the right to vocational guidance (Article 9);
- the right to vocational training (Article 10);
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15);
- the right to engage in a gainful occupation in the territory of other Parties (Article 18);
- the right to equal opportunities between women and men (Article 20);
- the right to protection in cases of termination of employment (Article 24);
- the right of workers to the protection of their claims in the event of the insolvency of their employer (Article 25).

The deadline for the submission of reports was 31 October 2011. Reports on the Charter were presented by Albania, Andorra, Armenia, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Ireland, Italy, Lithuania, Malta, the Republic of Moldova, Montenegro, the Netherlands, Norway, Portugal, Romania, the Russian Federation, Serbia, the Slovak Republic, Slovenia, Sweden, Turkey and Ukraine. Reports on the 1961 Charter were presented by Austria, Croatia, Czech Republic, Denmark, Germany, Greece Iceland, Latvia, Luxembourg, the Netherlands in respect of the Caribbean part and Curacao, Poland, Slovakia, Spain "The former Yugoslav Republic of Macedonia" and the United Kingdom.

Only Hungary did not submit a report in time, however the Netherlands also failed to submit a report in respect of Aruba and St Maarten.

The Committee's findings

The Committee published its Conclusions 2012 and XX-1 on 29 January 2013. It adopted a total of 608 conclusions in respect of the 42 countries, including 277 conclusions of conformity (47%) and 156 findings (25%) of violations of the Charter. A significant number of conclusions were deferred (175 deferrals in total or 28%) for lack of information.

The substantive findings of the Committee cover a very wide spectrum of situations related to employment, training and equal opportunities. While the many specific findings do not lend themselves to brief and simplistic categorisation, certain typical or recurring problems of conformity nevertheless stand out:

The right to work and equal opportunities

In view of the economic crisis it is perhaps not surprising that the Committee found a number of countries to be in breach of Article 1§1 which obliges States to pursue a policy of full employment and to adequately assist the unemployed. 13 States: were found not to have demonstrated that their efforts in terms of job creation, training and assistance for the unemployed were adequate in the light of the economic situation and the level of unemployment.

Under Article 1§2 the Committee found 22 States not to be in conformity with this provision. The majority of the violations concern excessive restrictions on the access of foreigners to employment, in particular in the civil service, but in some cases also in certain specific occupations.

Legislation not adequately prohibiting discrimination on grounds other than sex were found in some countries, for example the scope of the existing legislation is too restrictive, upper limits on compensation in discrimination cases do not ensure full reparation in all cases, the law does not provide for proper adjustment of the burden of proof in discrimination cases. Some countries do not adequately prohibit discrimination on certain grounds.

In total there were 54 conclusions of non-conformity pertaining to Article 1 (33%).

Discrimination in the labour market on grounds of sex, which is examined primarily under Article 20 (Article 1 of the 1988 Additional Protocol) on equal opportunities for men and women remains a problem issue in some countries. The Committee found 5 countries to be in breach of the Charter because underground mining is prohibited for women. In certain countries equal pay comparisons outside the company directly concerned are not possible and in others the upper limits on compensation in sex discrimination cases were not compatible with the Charter as they might not in all cases guarantee full reparation making good the loss suffered and being sufficiently dissuasive.

In total there were 12 conclusions of non-conformity pertaining to Article 20/ Article 1 of the 1988 Additional Protocol (33%).

The right to vocational guidance

In total there were 6 findings of non-conformity under Article 9 (25%) guaranteeing the right to vocational guidance in the education system and in the labour market, in the majority of cases due to lack of equal treatment of nationals of other States Parties.

The right to vocational training

With respect to right to vocational training and access to university education the large majority of the violations found by the Committee concern discrimination of foreigners with respect to financial assistance and tuition fees. Thus, 18 countries were found to be in breach of Article 10§5 (10§4 under the 1961 Charter), typically due to length of residence requirements imposed on lawfully resident foreign students (such requirements are compatible with the Charter in respect of students who enter the country for the sole purpose of studying, but not for foreigners who are lawfully resident for other reasons).

Within EU member states, EU citizens are in general exempt from these discriminatory requirements and so the problems identified concern largely nationals of those States Parties who are not members of the EU. In certain countries length of residence requirements apply not only to financial assistance, but also access to education and training as such, which constitutes a violation of Article 10§1. Only one breach of Article 10§2 (apprenticeships) was found while there were three violations of Article 10§3 on the grounds of inadequate training and retraining facilities for adult workers.

In total there were 22 conclusions of non-conformity under Article 10 (16%).

The rights of persons with disabilities

Under Article 15§1 on guidance, education and training for persons with disabilities two problems in particular arose: inadequate or lacking legislation explicitly prohibiting discrimination in education and insufficient "mainstreaming" of persons with disabilities into general education schemes. 10 countries violated Article 15§1 on one or both of these grounds.

Also the access of persons with disabilities to employment (ordinary and sheltered) pursuant to Article 15§2 gave rise to many conclusions of non-conformity on discrimination-related grounds. In respect of 12 countries the Committee did not find it established that there was effective anti-discrimination legislation, including in some cases accompanied by non-respect for the obligation under this Charter provision to provide reasonable accommodation (workplace adaptation, etc.). The lack of effective remedies against discrimination was also a problem in a number of countries.

Finally, problems relating to discrimination were also predominant under Article 15§3 which concerns the social integration and participation of persons with disabilities. 5 countries did not comply with this provision either because anti-discrimination legislation, including effective remedies, covering all the areas required by the Charter (housing, transport, telecommunications, culture and leisure) had not been shown to exist or because it did not cover all these areas.

In total there were 27 conclusions of non-conformity under Article 15 (29%).

The right to engage in gainful employment in other States Parties

Although Article 18 is not a full-fledged guarantee of free movement of workers as it exists between the EU member states, and thus does not require States to grant entry into their territories, it is nevertheless a right that quite frequently comes into conflict with the increasingly restrictive immigration laws in the States Parties. 14 countries in total were found to violate one or more of the different provisions of Article 18. 5 countries were not in conformity with Article 18§1 because they had not shown that existing rules on work permits are applied in a spirit of liberality (assessed on the basis of refusal rates for work permit applications).

Under Article 18§2, 6 countries had not undertaken the required simplification of work and residence permit regulations, for example due to the existence of a dual application procedure, in other countries fees and charges for permits were considered to be excessive.

Under Article 18§3, 5 countries were found to be in breach because a foreign worker's residence permit may be revoked if he loses his job and the foreign worker may be obliged to leave the country as soon as possible.

One country was held to be in violation of Article 18§4, the Committee considering that a blanket prohibition law on leaving the country for a period of up to five years after having had access to data of special importance or to top secret data constituting a state secret was too restrictive and went beyond what could be justified under Article G of the Charter.

In total there were 18 conclusions of non-conformity under Article 18 (18%).

The right to protection in cases of termination of employment

12 countries (50%) violated Article 24 on the right to dismissal protection. The findings included such issues as the maximum amount of compensation in case of unlawful dismissal being inadequate, insufficient protection during probationary periods (several countries), no provision for reinstatement and no provision for adjustment of the burden of proof in unlawful dismissal cases. A notable development was a new statement of interpretation by the Committee according to which the termination of employment on the sole ground that the person has reached pensionable age cannot be considered a justified dismissal. Such dismissals are permitted by the law in several countries.

The right of workers to protection of their claims in the case of the insolvency of the employers

The Committee found 5 countries (28%) to be in violation of Article 25 for not guaranteeing adequate protection of workers' claims in the event of the insolvency of the employer.

Examples of progress in the application of Charter rights

Despite the context of the economic and financial crisis, many States Parties have taken account of the Committee's conclusions in different areas in order to adjust the relevant laws and regulations or eliminate practices contrary to the standards laid down by the Committee.

Thus, in the course of examining the national reports for Conclusions 2012 and XX-1 the Committee in took note, inter alia, of the following examples of the impact of the Charter:

Austria: In response to the economic crisis, the Government adopted stimulus packages as well as three labour market packages, the last of which focused on education and training measures for both employees and jobseekers. The budget for active labour market policy in 2009 was increased by more than € 250 million (an increase of 23.5% compared to the previous year). [Article 1§1]

Azerbaijan: The total number of participants in active measures was 121,399 persons in 2010, a significant increase from 16,711 persons in 2007. The Committee notes that the activation rate, i.e. the average number of participants in active measures as a percentage of total unemployed, was 47% in 2010. [Article 1§1]

Sweden: The Government has undertaken a number of structural measures during the reference period, with a view to: (i) encouraging unemployed persons to actively seek employment, (ii) facilitating labour market re-integration of persons that have been detached from it, and (iii) a better matching between job seekers and job vacancies by a restructuring of the Public Employment Service. In addition to these structural reforms, a series of temporary measures in the context of the economic crisis of 2008 were introduced to mitigate the recession's negative effects. [Article 1§1]

Poland: Under an act adopted on 24 August 2007 foreign nationals wishing to practise medicine in Poland must still obtain authorisation from the Chamber of Physicians, but authorisation must now be granted if the person concerned meets certain conditions, listed in the report, none of which depend on the applicant's nationality. [Article 1§2]

Republic of Moldova: Law No. 156-XVI on the organization of (alternative) civil service, which brought the length of non-military national service into line with that of military service (12 months), came into force on 7 September 2007. [Article 1§2]

Latvia: An improvement in the support system for the unemployed was the introduction of an 'individual job-seeking plan' on July 1, 2007. Job seeking assistance is one of most important services of the State Employment Agency (SEA), and the system of 'individual plan' allows more flexibility, intensifying contact between the SEA and an unemployed person if the latter needs greater support in finding a job or reducing this contact if the person is able to find a job independently. [Article 1§3]

Estonia: The Equal Treatment Act which entered into force on 1 January 2009 provides for a prohibition of discrimination on the ground of disability in access to all types and to all levels of vocational guidance, vocational training, advanced vocational training and retraining. [Article 15§1]

The Equal Treatment Act (2009) which prohibits discrimination on the grounds of disability with regard to: conditions of access to employment, self-employment and occupation, including selection criteria, recruitment conditions and promotion; entry into employment contracts or contracts for the provision of services; appointments, working conditions, remuneration, termination of employment contracts or contracts for the provision of services, or release from office entered into force. [Article 15§2]

Lithuania: amendments to the Law on Equal Treatment (No. X–1602 of 17 June 2008 mean that that the duty to provide reasonable accommodation is now embodied in the Law on Equal Treatment. [Article 15§2]

The Law on the Social Integration of the Disabled Persons now provides for general anti-discrimination provisions explicitly protecting persons with disabilities in the fields of housing, transport, telecommunications and cultural and leisure activities. [Article 15§3]

Poland: the 2010 Act on Equal Treatment introduced into the Act on Vocational and Social Rehabilitation and Employment of Disabled Persons an expressly worded duty of reasonable accommodation for a person with disabilities who is employed, participates in the recruitment process or undergoes training, internship, etc. unless such measures would impose a disproportionate burden on the employer. [Article 15§2]

Slovenia: in 2010, a new Act on Equal Opportunities for People with Disabilities was adopted. The purpose of this act is to prevent and eliminate discrimination of people with disabilities, and to encourage equal opportunities of people with disabilities in all areas of life. It also specifically prohibits discrimination in access to goods and services available to the public and sets out an obligation to provide appropriate accommodation and remove physical and communication barriers that prevent access of people with disabilities to goods and services. [Article 15§3]

The Committee's statement of interpretation and general questions

Statements of interpretation

In accordance with its practice, the Committee in Conclusions 2012 and XX-1 made several statements explaining and developing its interpretation of certain specific provisions of the Charter. The General Introduction thus contained the following statements of interpretation:

Statement of interpretation on Article 1§2: prison work

Prisoners' working conditions must be properly regulated, particularly if they are working, directly or indirectly, for employers other than the prison service. In accordance with the principle of non-discrimination enshrined in the Committee's case law, this supervision, which may be carried out by means of laws, regulations or agreements (particularly where companies act as subcontractors in prison workshops), must concern pay, hours and other working conditions and social protection (in the sphere of employment injury, unemployment, health care and old age pensions).

Statement of interpretation on Article 1§2: workers' right to privacy

The Committee notes that the emergence of the new technologies which have revolutionized communications have permitted employers to organize a continuous supervision of employees and in practice enable employees to work for their companies at any time and in any place, including their homes with the result that the frontier between professional and private life has been weakened. The result is an increased risk of work encroaching upon all reaches of private life, even outside working hours and outside the place of work. The Committee considers that the right to undertake work freely includes the right to be protected against interferences with the right to privacy. Therefore it is essential that the fundamental right of workers to privacy should be asserted within the employment relationship so as to ensure that this right is properly protected.

Statement of interpretation on Article 1§2: requirement to accept the offer of a job or training or otherwise lose unemployment benefit

The requirement for persons claiming unemployment benefit to accept the offer of a job or training or otherwise no longer be entitled to unemployment benefit should be dealt with under Article 12§1. However, the Committee takes due account of the *Guide to the concept of suitable employment in the context of unemployment benefit* drawn up by the Committee of Experts on Social Security of the Council of Europe at its 4th meeting, held in Strasbourg from 24 to 26 March 2009, and holds that the loss of benefit or assistance when an unemployed person rejects a job offer may constitute a restriction on freedom to work where the person concerned is compelled, on pain of losing benefit, to accept any job, notably a job:

- which only requires qualifications or skills far below those of the individual concerned;
- which pays well below the individual's previous salary;
- which requires a particular level of physical or mental health or ability, which the person does not possess at the relevant time;
- which is not compatible with occupational health and safety legislation or, where these exist, with local agreements or collective employment agreements

covering the sector or occupation concerned and therefore may affect the physical and mental integrity of the worker concerned;

- for which the pay offered is lower than the national or regional minimum wage or, where one exists, the norm or wage scale agreed on for the sector or occupation concerned, or where it is lower, to an unreasonable extent, than all of the unemployment benefits paid to the person concerned at the relevant time and therefore fails to ensure a decent standard of living for the worker and his/her family;
- which is proposed as the result of a current labour dispute;
- which is located at a distance from the home of the person concerned which can be deemed unreasonable in view of the necessary travelling time, the transport facilities available, the total time spent away from home, the customary working arrangements in the person's chosen occupation or the person's family obligations (and in the latter case, provided that these obligations did not pose any problem in the person's previous employment);
- which requires persons with family responsibilities to change their place of residence, unless it can be proved that these responsibilities can be properly assumed in the new place of residence, that suitable housing is available and that, if the situation of the person so requires, a contribution to the costs of removal is available, either from the employment services or from the new employer, so respecting the worker's right to family life and housing.

In all cases in which the relevant authorities decide on the permanent withdrawal or temporary suspension of unemployment benefit because the recipient has rejected a job offer, this decision must be open to review by the courts in accordance with the rules and procedures established under the legislation of the State which took the decision.

Statement of interpretation on Article 1§2: length of alternative service to replace military service

The length of service to replace military service (alternative service during which persons are deprived of the right to earn their living in an occupation freely entered must be reasonable. The Committee evaluates whether the length of such replacement service is reasonable in view of the period of military service, whether it is proportionate and not excessive.

The Committee recalls in this respect Recommendation R(87)8 of the Committee of Ministers Regarding Conscientious Objection to Compulsory Military Service which provides that "Alternative service shall not be of a punitive nature. Its duration shall, in comparison to that of military service, remain within reasonable limits."

The Committee notes that compulsory military service has been abolished by many States Parties in the past decade and that only a minority of States retain such a service.

The Committee has in the past stated that alternative service which is not more than 1.5 times the length of military service is in principle in conformity with the Charter. The Committee wishes now to further develop its case law, the question remains one of proportionality and reasonableness but the approach need to be more flexible and holistic. Where the length of military service is short the Committee will not necessarily insist on alternative service being not more than 1.5 times the length of military service. Nevertheless, the longer the period of military service is the stricter the Committee will be in evaluating the reasonableness of any additional length of the alternative service.

Statement of interpretation on Article 18 (§1 and §3): right to engage in a gainful occupation in the territory of other Parties

Article 18 requires each State Party to ensure to the nationals of any other Party the effective exercise of the right to engage in a gainful occupation in its territory, by applying existing regulations in a spirit of liberality (§1), and by liberalising regulations governing the employment of foreign workers (§3). As the Committee has already observed, 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.

The Committee considers to be also in conformity with Article 18§§1 and 3, the fact that a State Party, in view of ensuring free movement of workers within a given economic area of European States, such as the EU or the EEA, gives priority in access to the national labour market not only to national workers, but also to foreign workers from other European States members of the same area. An example of such a situation can be found in the application of the so called "priority workers" rule, provided for by the EU Council Resolution of 20 June 1994 on limitation on admission of third-country nationals to the territory of the Member States for employment. This Resolution states inter alia that EU Member States will consider requests for admission to their territories for the purpose of employment only where vacancies cannot be filled by national and Community manpower, or by non-Community manpower lawfully resident on a permanent basis in that Member State and already forming part of the Member State's regular labour market.

In this regard the Committee notes, however, that in order not to be in contradiction with Article 18 of the Charter, 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. Such a situation, deriving from the implementation of "priority rules" of the kind just mentioned, would not be in conformity with Article 18§1, of the Charter, since it would prove an insufficient degree of liberality in applying existing regulations with respect to the access to the national labour market of foreign workers of a number of States Parties to the

Charter. It would also be contrary to Article 18§3, since the State in question would not comply with its obligation to progressively liberalise regulations governing the access to the national labour market with respect to foreign workers of a number of States Parties to the Charter.

The Committee refers to its general questions below on Article 18§1 and 18§3 (EU/EEA States).

Statement of interpretation on Article 18§2: dues and charges

According to Article 18§2 of the Charter, with a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, States Parties are under an obligation to reduce or abolish chancery dues and other charges paid either by foreign workers or by their employers. The Committee observes that 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.

Statement of interpretation on Article 18§3: recognition of certificates, qualifications and diplomas

Article 18§3 requires each State Party to liberalise regulations governing the employment of foreign workers, in order to ensure to the workers from other States Parties the effective exercise of the right to engage in a gainful occupation. The Committee considers that, in view of ensuring the effective exercise of this right, the States Parties' engagement in liberalisation shall include regulations governing the recognition of foreign certificates, professional qualifications and diplomas, to the extent that such qualifications and certifications are necessary to engage in a gainful occupation as employees or self-employed workers.

A requirement that foreign worker be in possession of certificates, professional qualifications or diplomas issued only by national authorities, schools, universities, or other training institutions, without opening the possibility of recognising as valid and appropriate substantially equivalent certificates, qualifications or diplomas issued by authorities, schools, universities or other training institutions of other States Parties, which have been obtained as a result of training courses or professional careers carried out within other States Parties, would represent a serious obstacle for foreign workers to access the national labour market, and an actual discrimination against non-nationals.

For this reason the Committee, taking inspiration also from the example of the legislative and jurisdictional practice of EU institutions aimed at guaranteeing the right to establishment by the harmonization and mutual recognition of qualifications, considers it necessary that States Parties make efforts to liberalise regulations governing the recognition of foreign certificates, professional qualifications and diplomas, progressively reducing the disadvantages for foreign workers to engage in a gainful occupation due to lack of recognition of foreign diplomas or professional qualifications substantially equivalent to those issued by national authorities, schools, universities or other training institutions. The Committee refers to its general question below on Article 18§3 (recognition of certifications, qualifications and diplomas).

Statement of interpretation on Article 18§3: consequences of job loss

The Committee observes that both the granting and the cancellation of work and temporary residence permits may well be interlinked, in as much as they refer to the same case in question- whether or not to enable a foreigner to engage in a gainful occupation. However, in case a work permit is revoked before the date of expiry, either because the employment contract is prematurely terminated, or because the worker no longer meets the conditions under which the work permit was granted, it would be contrary to the Charter to automatically deprive such worker of the possibility to continue to reside in the State concerned and to seek another job and a new work permit, unless there are exceptional circumstances which would authorise expulsion of the foreign worker concerned, in the meaning of Article 19§8.

Statement of interpretation on Article 20: equal pay comparisons

Under Article 20, equal treatment between women and men includes the issue of equal pay for work of equal value. Usually, pay comparisons are made between persons within the same undertaking/company. However, there may be situations where, in order to be meaningful this comparison can only be made across companies/undertakings. Therefore, the Committee requires that it be possible to make pay comparisons across companies. It notes that at the very least, legislation should require pay comparisons across companies in one or more of the following situations:

- cases in which statutory rules apply to the working and pay conditions in more than one company;
- cases in which several companies are covered by a collective works agreement or regulations governing the terms and conditions of employment;
- cases in which the terms and conditions of employment are laid down centrally for more than one company within a holding [company] or conglomerate.

Statement of interpretation on Article 24: age and termination of employment

The Committee recalls that according to the Appendix to the Charter, for the purposes of Article 24 the term 'termination of employment' means termination

of employment at the initiative of the employer. Therefore, situations where a mandatory retirement age is set by statute, as a consequence of which the employment relationship automatically ceases by operation of law, do not fall within the scope of this provision.

The Committee further recalls that Article 24 establishes in an exhaustive manner the valid grounds on which an employer can terminate an employment relationship. Two types of grounds are considered valid, namely on the one hand those connected with the capacity or conduct of the employee and on the other hand those based on the operational requirements of the enterprise (economic reasons).

The Committee holds that under Article 24 dismissal of the employee at the initiative of the employer on the ground that the former has reached the normal pensionable age (age when an individual becomes entitled to a pension) will be contrary to the Charter, unless the termination is properly justified with reference to one of the valid grounds expressly established by this provision of the Charter.

Statement of interpretation on Article 25: protection in the event of the insolvency of the employer

The Committee recalls that, in the event of the insolvency of their employer, workers' claims must be guaranteed by a guarantee institution or by any other effective form of protection. The appendix to the Charter stipulates, inter alia, the minimum amounts of wages and paid absence that must be covered depending on whether recourse is had to a "privilege system" (three months prior to the insolvency) or a "guarantee system" (eight weeks).

The Committee has consistently held that the term "insolvency" includes both situations in which formal insolvency proceedings have been opened relating to an employer's assets with a view to the collective reimbursement of his creditors and situations in which the employer's assets are insufficient to justify the opening of formal proceedings (see for example Conclusions 2003, p. 199). In this respect, the Committee wishes to make it clear that a privilege system, on its own, cannot be regarded as an effective form of protection in the meaning of Article 25. While a privilege system may amount to effective protection in cases where formal insolvency proceedings are opened, this is not so in situations where the employer no longer has any assets. It serves no purpose to have a privilege when there are no assets to divide among creditors and consequently States Parties must provide for an alternative mechanism to effectively guarantee workers' claims in those situations.

General Questions

The Committee addresses the following general question to all the States Parties inviting them to provide replies in the next report on the provisions concerned:

Article 1§2: workers' right to privacy

The Committee asks for information in the next report on measures taken by States Parties to ensure that employers give due consideration to workers' private lives in the organization of work and that all interferences are prohibited and where necessary sanctioned.

Article 1§2: existence of forced labour in the domestic environment

The Committee would like to draw the States' attention to the problem raised by domestic work and work in family enterprises, both different phenomena but both which may give rise to forced labour and exploitation, problems at the heart of ILO Domestic Workers Convention No. 189 (2011). Work in family enterprises may give rise to excessive working hours, failure to remunerate properly, etc. The Committee asks States Parties for information on the legal provisions adopted to combat these practices and the measures taken to supervise their implementation. As regards domestic work the Committee considers that such work often involves abusive, degrading and inhuman living and working conditions for the domestic workers concerned (see ECtHR judgments in Siliadin v. France, 26 July 2005, final on 26 October 2005, and in Rantsev v. Cyprus and Russia, 7 January 2010, final on 10 May 2010).

Consequently, the Committee asks whether the homes of private persons who employ domestic workers are subject to inspection visits. It further asks whether penal law effectively protects domestic workers in case of exploitation by the employer and whether regulations offer protection against abuse, by requiring, for example, that migrant workers recruited in one State for the performance of domestic work in another State receive an offer of employment in writing or an enforceable employment contract in this last State. It finally asks whether foreign domestic workers have the right to change employer in case of abuse or whether they forfeit their right of residence if they leave their employer.

Article 18§1 (EU/EEA States)

The Committee asks all States Parties being EU/EEA member states to provide information in the next report on the number of work permits granted to applicants from non-EEA States, as well as on work permit refusal rate with respect to applicants from such States, as this information is relevant in order to assess the degree of liberality in applying existing regulations governing access to national labour market. In this regard, the Committee observes that an absence or an extremely low number of work permits granted to nationals of non-EEA States Parties to the Charter, together with a very high work permit refusal rate with respect to applicants from such States, due to the application of rules like the so called "priority workers" rule (according to which a State will consider requests for admission to its territories for the purpose of employment only where vacancies cannot be filled by national and Community manpower), would not be in conformity with Article 18§1, since it would indicate an insufficient degree of liberality in applying

existing regulations with respect to the access to the national labour market of nationals of non-EEA States Parties to the Charter.

Article 18§3 (EU/EEA States)

The Committee asks all States Parties being EU/EEA member states to provide information in the next report on the number of applications for work permits submitted by nationals of non-EEA States, as well as on the grounds for which work permits are refused to nationals of non-EEA States Parties to the Charter. In this respect the Committee observes that should refusals always or in most cases derive from the application of rules – like the so called "priority workers" rule –, according to which a State will consider requests for admission to its territories for the purpose of employment only where vacancies cannot be filled by national and Community manpower, determining as a consequence to discourage nationals of non-EEA States from applying for work permits, this would not be in conformity with Article 18§3, since the State would not comply with its obligation to liberalise regulations governing the access to national labour market with respect to nationals of non-EEA States parties to the Charter

Article 18§3: recognition of certificates, qualifications and diplomas

The Committee asks States Parties to provide information in the next report about the measures eventually adopted (either unilaterally, or by way of reciprocity with other States Parties to the Charter) to liberalise regulations governing the recognition of foreign certificates, professional qualifications and diplomas, with a view to facilitating the access to national labour market. Such information shall concern the category of dependant employees, as well as the category of self-employed workers, including workers wishing to establish companies, agencies or branches in order to engage in a gainful occupation.

Article 20: equal pay comparisons

The Committee asks whether legislation permits, in equal pay cases, comparisons of pay to be made outside the company directly concerned, and under what conditions.

Article 20: positive action measures

The Committee asks States Parties to provide information in the next report on positive action measures taken to promote gender equality in employment.

Statement on deferred conclusions

The Committee recalls that its assessments of national situations in accordance with Article 24 of the Charter as amended by the Turin Protocol give rise to two types of conclusions only: conclusions of conformity and conclusions of non-conformity. Having regard to the fact that the Committee in several cases had to defer its conclusion due to lack of information in the national report, it wishes to

emphasize that the absence of the requisite information amounts to a breach of the reporting obligation entered into by the States Parties concerned under the Charter.

5. Procedure on non-accepted provisions

The possibility provided by Article A of the Charter (Article 20 of the 1961 Charter) of ratifying the treaty without accepting all its substantive provisions may be seen as both a weakness and strength. On the one hand, this feature obviously restricts the Charter's scope and potential in those countries who choose not to accept all provisions and this "variable geometry" of obligations is unusual at best and counterproductive at worst for a human rights treaty. On the other hand, this possibility has no doubt allowed ratification of the treaty by countries who would not otherwise have been able to do so and has thus ensured the application of at least a basic set of very important social rights (due to the minimum level of acceptance stipulated by Article A) in these countries. The fact is that the Charter today is one of the most widely ratified human rights treaties of the Council of Europe with 43 States Parties (and being signed by all 47 member states).

Overall the level of acceptance is quite high: some States Parties have accepted all the 98 numbered paragraphs of the Charter (72 in the 1961 Charter) such as France and Portugal, others have come very close such as Italy and the Netherlands with 97 out of the 98, but there are still States Parties which have only the minimum of 63 numbered paragraphs or just over it. Taken as an average of all States Parties the level of acceptance corresponds to about 78%.

Article A of the Charter (Article 20 of the 1961 Charter) also provides that States Parties may at any moment following the ratification of the treaty notify the Secretary General of its acceptance of any additional articles or paragraphs. It is in the light of this principle of progressive acceptance that the procedure set out in Article 22 of the 1961 Charter should be seen.

Under this last provision States Parties have the obligation to submit reports at intervals to be determined by the Committee of Ministers on the Charter provisions which they did not accept at the time of ratification or subsequently.

For the first many years of the Charter's existence this procedure was carried out as a classical reporting exercise, where States would submit written reports describing law and practice as regards the provisions concerned. The Committee of Ministers initiated such "exercises" on 8 occasions between 1981 and 2002.

However, in December 2002, the Ministers' Deputies adopted a new procedure concerning examination of the non-accepted provisions under Article 22:

The Deputies decided that "States having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and it "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the States concerned".

Following this decision, five years after ratification of the Revised Charter (and every five years thereafter), the European Committee of Social Rights has reviewed non-accepted provisions with the countries concerned, with a view to securing a higher level of acceptance. Past experience had shown that governments tended to overlook that selective acceptance of Charter provisions was meant to be a temporary phenomenon. The aim of the new procedure was therefore to require them to review the situation on a continuous basis and encourage them to accept more provisions whenever possible.

On 27 June 2012 in a declaration from the President of the Republic of Estonia, registered at the Secretariat on 5 July 2012, the Republic of Estonia declared that it considers itself bound by the following additional Articles of Part II of the Charter: Articles 10§2, 13§4, 18§1, 18§2, 18§4, 26§1, 26§2 and 30. These provisions entered into force in respect of Estonia on 1 September 2012 and it is now bound by 87 of the Charter's 98 paragraphs.

The acceptance of these additional provisions came after fruitful contacts between the Committee and the Estonian authorities at a first meeting in Tallinn on 5 April 2005 and a second meeting, also in Tallinn, on 20 September 2010. The reports of these meetings are available at www.coe.int/socialcharter.

In 2012, the procedure on the non-accepted provisions concerned the following four States Parties: Albania, Finland, Portugal and Turkey.

Albania

Albania ratified the Charter in 2002 and accepted 64 paragraphs of the 98 paragraphs.

The following provisions were not accepted:

Articles 9, 10§1, 10§2, 10§3, 10§4, and 10§5, 12§1, 12§2, 12§3, and 12§4, 13§1, 13§2, 13§3 and 13§4, 14§1 and 14§2, 15§1, 15§2 and 15§3, 16, 17§1 and 17§2, 18§1, 18§2, 18§3, and 18§4, 27§1, 27§2 and 27§3, 30 and 31§1, 31§2 and 31§3.

Following the first meeting organized in 2007, the second meeting on the non-accepted provisions of the Charter was organized in Tirana on 5 June 2012.

The meeting focused on the actual legislative situation in Albania, the situation in practice, and the possible acceptance of some or all above-mentioned articles. Representatives of the following Albanian state institutions attended the meeting: Ministry of Labour, Social Affairs and Equal Opportunities, Ministry of Transport and Telecommunications, National Children Rights Agency, Social Insurances Institute and Ministry of Culture.

On the basis of the information at its disposal, the Committee concluded in its report that there were no legal obstacles to acceptance by Albania of the following provisions:

Articles 9, 10§1, 10§2, 10§3, 10§4, 10§5, 12§2, 12§3 13§2, 13§3, 13§4, 14§1, 14§2, 17§1, 17§2, 18§1, 18§2, 18§3, 18§4, 27§1, 27§2, 27§3 and 31§1.

With respect to the following provisions the Committee was of the view that the situation is still not fully in compliance with the Charter:

Articles 12§1, 12§4, 13§1, 15§1, 15§2, 15§3, 16, 23, 30, 31§2 and 31§3.

The Committee's report is available at www.coe.int/socialcharter.

Finland

Finland ratified the Charter on 21 June 2002 and accepted 88 of the 98 paragraphs.

The following provisions were not accepted:

Articles 3§2, 3§3, 4§1, 4§4, 7§6, 7§9, 8§1, 8§3, 8§5 and 19§10.

Following the meeting which was organized in 2007, it was agreed with the Finnish Government to carry out the procedure in a written format on this occasion. On the basis of the written information provided by the Government, the Committee concluded that there were no obstacles in law and in practice to the acceptance of Articles 4§1, 8§3 and 19§10.

Moreover, having regard to developments in the Committee's case law and/or developments in Finnish law since the ratification, the Committee considered – subject to certain clarifications – that there were no significant or insurmountable obstacles to acceptance also of Articles 7§6, 7§9 and 8§1.

Finally, the Committee was of the view that as far as Articles 3§2, 3§3, 4§4 and 8§5 were concerned, legislative changes would likely be required to bring the situation into conformity with the Charter.

The Committee's report is available at www.coe.int/socialcharter.

Portugal

Portugal ratified the Charter on 30 May 2002, accepting all of its 98 paragraphs.

In view Portugal's acceptance of all the provisions, the procedure was not applied to this country.

Turkey

Turkey ratified the Revised European Social Charter on 27 June 2007 and accepted 91 of the 98 paragraphs.

The following provisions were not accepted:

Articles 2§3, 4§1, 5, 6§1, 6§2, 6§3 and 6§4.

Since the procedure on non-accepted provisions was due to be carried out in respect of Turkey for the first time in 2012, it was agreed with the authorities that a meeting with the Committee was desirable. However, for practical reasons it was not feasible to organize the meeting in 2012 and it was therefore postponed until the first half of 2013.

6. Meetings of the Bureau with the Bureau of the Governmental Committee

In 2012, the Bureau of the European Committee of Social Rights and the Bureau of the Governmental Committee of the European Social Charter and the European Code of Social Security (GC) met twice, namely on 24 October 2012 and on 6 December 2012.

The main purpose of these meetings was to follow up on a decision taken by the Committee of Ministers on 19 September 2012 to "… reflect upon ways of streamlining and improving the reporting system of the European Social Charter as a whole, also considering the situation of States which accepted the collective complaints' mechanism…".

The discussion concentrated on the reasons which had prompted the European Committee of Social Rights already in 2011 to make proposals for changing the reporting mechanism, which were the following:

- the need to simplify the work of all the actors in the monitoring system (the European Committee of Social Rights, the GC, the national authorities, the Charter Department), so as to reduce the current workload; to return to the biennial cycle enshrined in the Charter; to avoid too many reports on situations that were in conformity and target more problematic situations, making the European Committee of Social Rights' work more efficient; to work closely with each State Party to remedy the most problematic situations; to set up annual exchanges on current themes between Members of the European Committee of Social Rights, government civil servants, social partners, civil society and the academic network on the Charter;
- the need for a proactive analysis of situations resulting in consistency, responsiveness and flexibility; to prevent the conclusions becoming outdated due to the four-year reporting cycle; to incorporate the reporting procedure into the new workings of the Council of Europe following its reform, bringing it into line with the biennial budget in particular so as to ensure consistency of funding;
- the need for more constructive exchanges with the GC and other Council of Europe bodies (such as exchanges between the European Committee of Social Rights and the Committee of Ministers, the Parliamentary Assembly and the Human Rights Commissioner), or even beyond (such as exchanges with the European Union and the International Labour Organization).

The two Bureau meetings aimed to clarify questions raised by the Bureau members of the GC such as:

- What would be the procedure used to decide on a particular theme to be reported on? It did not seem feasible to identify a theme which could be of interest for all the States Parties.
- Would the themes be targeted by category of persons of by groups of rights?

– With respect to a possible reform, weren't there two categories of State Parties to be considered? One which accepted the collective complaints' mechanism and another which accepted the reporting mechanism only?

Taking into account the questions raised and the views expressed at the two Joint Bureaux meetings, the discussion will be continued in 2013 at the plenary meetings of the GC and possibly at further Joint Bureaux meetings with a view to reporting back to the Committee of Ministers.

7. Academic Network on the Charter

A university seminar on legal issues relating to the implementation of the European Social Charter was held in Rome on 16 November 2012.

The meeting was held by the Academic Network on the European Social Charter in co-operation with the Istituto di Studi Giuridici Internazionali – Consiglio nazionale della ricerca and the Department of the European Social Charter and the European Code of Social Security.

During the seminar, the Academic Network held a working meeting, which provided the opportunity to discuss draft regulations and set up the Network's Italian section. A representative of the Charter Department also took part in the meeting.

At the meeting it was also agreed that the issue of the Network's legal personality would be dealt with later and that this would depend on whether it was registered under national or local law.

Professor Akandji-Kombé, the General Co-ordinator of the Network, undertook to send the final draft of the regulations to all the Network members for approval. At the meeting it was proposed that other national sections should be set up in future.

As soon as it was set up, the Italian section of the Network elected three national co-ordinators: Professor Guiglia (University of Verona), Professor Proietti (Sapienza University of Rome) and Professor Anastasi (University of Messina).

The Italian section decided to begin its co-operation work with the following activities: various publications in online university reviews; academic seminars on specific subjects; courses at the legal service training college; establishment and dissemination of key principles concerning social rights in relation to the provisions of the Charter and the decisions of the European Committee of Social Rights; new translation of the Charter in Italian (to correct the mistakes in the unofficial version contained in the ratification act of 1999).

Appendices

Appendix 1

List of the members of the European Committee of Social Rights as of 1 January 2013

Name and first name	Beginning of term	End of term
Mr Luis Jimena Quesada President	01/01/2009	31/12/2014
Ms Monika Schlachter Vice-President	01/01/2007	31/12/2018
Mr Petros Stangos Vice-President	01/01/2009	31/12/2014
Mr Colm O'Cinneide General Rapporteur	08/11/2006	31/12/2016
Mr Lauri Leppik	01/01/2005	31/12/2016
Ms Birgitta Nystrőm	01/01/2007	31/12/2018
Mr Rüchan Işik	0101/2009	31/12/2014
Mr Alexandru Athanasiu	01/01/2009	31/12/2014
Ms Jarna Petman	04/02/2009	31/12/2014
Ms Elena Machulskaya	01/01/2011	31/12/2016
Mr Giuseppe Palmisano	01/01/2011	31/12/2016
Ms Karin Lukas	01/01/2011	31/12/2016
Ms Eliane Chemla	01/01/2013	31/12/2018
Mr József Hajdú	01/01/2013	31/12/2018
Mr Marcin Wujczyk	01/01/2013	31/12/2018

Appendix 2

Signatures and ratifications of the 1961 Charter, its Protocols and the European Social Charter (Revised)
Situation at 26 March 2013

Member states	European Social Charter 1961 ETS 035		Additional Protocol 1988 ETS 128		Amending Protocol 1991 ETS 142		Collective Complaints Protocol 1995 ETS 158		Revised European Social Charter 1996 ETS 163	
	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification
Albania	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	21/9/98	14/11/02
Andorra	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	4/11/00	12/11/04
Armenia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	18/10/01	21/1/04
Austria	22/7/63	29/10/69	4/12/90	—	7/5/92	13/07/95	(2)	—	7/5/99	20/5/11
Azerbaijan	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	18/10/01	2/9/04
Belgium	18/10/61	16/10/90	20/5/92	23/6/03	22/10/91	21/9/00	14/5/96	23/6/03	3/5/96	2/3/04
Bosnia and Herzegovina	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	11/5/04	7/10/08
Bulgaria	(2)	(2)	(3)	(3)	(2)	(2)	(4)	(4)	21/9/98	7/6/00
Croatia	8/3/99	26/2/03	8/3/99	26/2/03	8/3/99	26/2/03	8/3/99	26/2/03	6/11/09	—
Cyprus	22/5/67	7/3/68	5/5/88	(3)	21/10/91	1/6/93	9/11/95	6/8/96	3/5/96	27/9/00
Czech Republic	27/5/92*	3/11/99	27/5/92*	17/11/99	27/5/92*	17/11/99	26/2/02	4/4/12	4/11/00	—
Denmark	18/10/61	3/3/65	27/8/96	27/8/96	—	***	9/11/95	—	3/5/96	—
Estonia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	4/5/98	11/9/00
Finland	9/2/90	29/4/91	9/2/90	29/4/91	16/3/92	18/8/94	9/11/95	17/7/98	3/5/96	21/6/02
France	18/10/61	9/3/73	22/6/89	(3)	21/10/91	24/5/95	9/11/95	7/5/99	3/5/96	7/5/99
Georgia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	30/6/00	22/8/05
Germany	18/10/61	27/1/65	5/5/88	—	—	***	(1)		29/6/07	
Greece	18/10/61	6/6/84	5/5/88	18/6/98	29/11/91	12/9/96	18/6/98	18/6/98	3/5/96	—

Member states	European Social Charter 1961 ETS 035		Additional Protocol 1988 ETS 128		Amending Protocol 1991 ETS 142		Collective Complaints Protocol 1995 ETS 158		Revised European Social Charter 1996 ETS 163	
	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification
Hungary	13/12/91	8/7/99	7/10/04	1/6/05	13/12/91	4/2/04	7/10/04	—	7/10/04	20/4/09
Iceland	15/1/76	15/1/76	5/5/88	—	12/12/01	21/2/02	(1)		4/11/98	
Ireland	18/10/61	7/10/64	(3)	(3)	14/5/97	14/5/97	4/11/00	4/11/00	4/11/00	4/11/00
Italy	18/10/61	22/10/65	5/5/88	26/5/94	21/10/91	27/1/95	9/11/95	3/11/97	3/5/96	5/7/99
Latvia	29/5/97	31/1/02	29/5/97	—	29/5/97	9/12/03	(1)		29/5/07 26/03/13	
Liechtenstein	9/10/91	—	—	—	—	—	—	—	—	—
Lithuania	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	8/9/97	29/6/01
Luxembourg	18/10/61	10/10/91	5/5/88	—	21/10/91	***	(1)	—	11/2/98	—
Malta	26/5/88	4/10/88	(3)	(3)	21/10/91	16/2/94	(2)	—	27/7/05	27/7/05
Republic of Moldova	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	3/11/98	8/11/01
Monaco	(1)		(1)		(1)		(1)		5/10/04	—
Montenegro	(2)	(2)	(3)	(3)	(2)	(2)	(2) 22/3/05** 3/3/10			
Netherlands	18/10/61	22/4/80	14/6/90	5/8/92	21/10/91	1/6/93	23/1/04	3/5/06	23/1/04	3/5/06
Norway	18/10/61	26/10/62	10/12/93	10/12/93	21/10/91	21/10/91	20/3/97	20/3/97	7/5/01	7/5/01
Poland	26/11/91	25/6/97	(1)	—	18/4/97	25/6/97	(1)	—	25/10/05	—
Portugal	1/6/82	30/9/91	(3)	(3)	24/2/92	8/3/93	9/11/95	20/3/98	3/5/96	30/5/02
Romania	4/10/94	(2)	(3)	(3)	(2)	(2)	(2)	—	14/5/97	7/5/99
Russian Federation	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	14/9/00	16/10/09

Member states	European Social Charter 1961 ETS 035		Additional Protocol 1988 ETS 128		Amending Protocol 1991 ETS 142		Collective Complaints Protocol 1995 ETS 158		Revised European Social Charter 1996 ETS 163	
	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification
San Marino	(1)	—	(1)	—	(1)	—	(1)	—	18/10/01	—
Serbia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	22/3/05**	14/9/09
Slovak Republic	27/5/92*	22/6/98	27/5/92*	22/6/98	27/5/92*	22/6/98	18/11/99	—	18/11/99	23/4/09
Slovenia	11/10/97	(2)	11/10/97	(3)	11/10/97	(2)	11/10/97	(4)	11/10/97	7/5/99
Spain	27/4/78	6/5/80	5/5/88	24/1/00	21/10/91	24/1/00	(1)	—	23/10/00	—
Sweden	18/10/61	17/12/62	5/5/88	5/5/89	21/10/91	18/3/92	9/11/95	29/5/98	3/5/96	29/5/98
Switzerland	6/5/76	—	—	—	—	—	—	—	—	—
"The former Yugoslav Republic of Macedonia"	5/5/98	31/3/05	5/5/98	—	5/5/98	31/3/05	(2)	—	27/5/09	6/1/12
Turkey	18/10/61	24/11/89	5/5/98	(3)	6/10/04	10/6/09	(2)	—	6/10/04	27/6/07
Ukraine	2/5/96	(2)	(3)	(3)	(2)	(2)	(2)	—	7/5/99	21/12/06
United Kingdom	18/10/61	11/7/62	(1)	—	21/10/91	***	(1)	—	7/11/97	—

* Date of signature by the Czech and Slovak Federal Republic

** Date of signature by the State Union of Serbia and Montenegro.

*** State whose ratification is necessary for the entry into force of the protocol.

Appendix 3

Acceptance of provisions of the Revised European Social Charter (1996)

■ accepted □ not accepted

Articles 1-4	Article 1				Article 2							Article 3				Article 4				
Para.	1	2	3	4	1	2	3	4	5	6	7	1	2	3	4	1	2	3	4	5
Albania	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Andorra	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Armenia	■	■	■	■	■	■	■	■	■	■	□	■	□	□	□	□	■	■	■	■
Austria	■	■	■	■	□	■	■	■	■	■	■	■	■	■	■	■	■	■	□	■
Azerbaijan	■	■	■	■	□	□	□	□	□	□	□	□	□	□	□	■	■	■	■	■
Belgium	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Bosnia and Herzegovina	■	■	■	■	■	■	■	■	■	■	■	□	□	□	□	□	□	■	□	□
Bulgaria	■	■	■	■	□	■	■	■	■	■	■	■	■	■	■	□	■	■	■	■
Cyprus	■	■	■	■	■	■	■	□	■	■	■	■	■	■	□	□	□	□	□	■
Estonia	■	■	■	■	■	■	■	□	■	■	■	■	■	■	□	□	■	■	■	■
Finland	■	■	■	■	■	■	■	■	■	■	■	■	□	□	■	□	■	■	□	■
France	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Georgia	■	■	■	■	■	■	□	□	■	□	■	□	□	□	□	□	■	■	■	□
Hungary	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	□	□	□	□	□
Ireland	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Italy	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Latvia	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	□	■	■	■	■
Lithuania	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Malta	■	■	■	■	■	■	■	□	■	■	□	■	■	■	■	■	■	■	■	■
Republic of Moldova	■	■	■	■	■	■	■	■	■	■	■	■	■	■	□	□	□	■	■	■
Montenegro	■	■	■	■	■	■	□	□	□	■	□	■	■	■	■	□	■	■	□	■
Netherlands[3]	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Norway	■	■	■	■	■	■	■	■	■	■	□	□	■	■	□	■	■	■	■	■
Portugal	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Romania	■	■	■	■	■	■	□	■	■	■	■	■	■	■	□	■	■	■	■	■
Russian Federation	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	□	■	■	■	■
Serbia	■	■	■	■	■	■	■	□	■	■	■	■	■	■	■	■	■	■	■	■
Slovakia	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Slovenia	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
Sweden	■	■	■	■	□	□	■	□	■	■	□	■	■	■	□	■	□	■	■	□
Turkey	■	■	■	■	■	■	□	■	■	■	■	■	■	■	■	□	■	■	■	■
"The former Yugoslav Republic of Macedonia"	■	■	■	■	■	■	■	■	■	■	■	□	■	□	■	□	■	■	□	■
Ukraine	■	■	■	■	■	■	□	■	■	■	■	■	■	■	■	□	■	■	■	■

3. Ratification by the Kingdom in Europe. The Caribbean part (Bonaire, Sint Eustatius and Saba). remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the Additional Protocol.

Articles 5-9	Art.	Article 6				Article 7										Article 8					Art.
Para.	5	1	2	3	4	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	9
Albania																					
Andorra																					
Armenia																					
Austria																					
Azerbaijan																					
Belgium																					
Bosnia and Herzegovina																					
Bulgaria																					
Cyprus																					
Estonia																					
Finland																					
France																					
Georgia																					
Hungary																					
Ireland																					
Italy																					
Latvia																					
Lithuania																					
Malta																					
Republic of Moldova																					
Montenegro																					
Netherlands[4]																					
Norway																					
Portugal																					
Romania																					
Russian Federation																					
Serbia					[5]																
Slovakia																					
Slovenia																					
Sweden																					
Turkey																					
"The former Yugoslav Republic of Macedonia"																					
Ukraine																					

4. Ratification by the Kingdom in Europe. The Caribbean part (Bonaire, Sint Eustatius and Saba). remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the Additional Protocol.
5. With the exception of professional military personnel of the Serbian Army.

Articles 10-15	Article 10					Art. 11			Article 12				Article 13				Art. 14		Art. 15		
Para.	1	2	3	4	5	1	2	3	1	2	3	4	1	2	3	4	1	2	1	2	3
Albania																					
Andorra																					
Armenia																					
Austria																					
Azerbaijan																					
Belgium																					
Bosnia and Herzegovina																					
Bulgaria																					
Cyprus																					
Estonia																					
Finland																					
France																					
Georgia																					
Hungary																					
Ireland																					
Italy																					
Latvia																					
Lithuania																					
Malta					[6]							[7]									
Republic of Moldova																					
Montenegro																					
Netherlands																					
Norway																					
Portugal																					
Romania																					
Russian Federation																					
Serbia																					
Slovakia																					
Slovenia																					
Sweden																					
Turkey																					
"The former Yugoslav Republic of Macedonia"																					
Ukraine																					

6. Sub-paragraphs *a* and *d* accepted.
7. Sub-paragraph *a* accepted.

Articles 16-19	Art.	Art. 17		Article 18				Article 19											
Para.	16	1	2	1	2	3	4	1	2	3	4	5	6	7	8	9	10	11	12
Albania																			
Andorra																			
Armenia																			
Austria																			
Azerbaijan																			
Belgium																			
Bosnia and Herzegovina																			
Bulgaria																			
Cyprus																			
Estonia																			
Finland																			
France																			
Georgia																			
Hungary																			
Ireland																			
Italy																			
Latvia																			
Lithuania																			
Malta																			
Republic of Moldova																			
Montenegro																			
Netherlands																			
Norway																			
Portugal																			
Romania																			
Russian Federation																			
Serbia		[8]																	
Slovakia											[9]								
Slovenia																			
Sweden																			
Turkey																			
"The former Yugoslav Republic of Macedonia"																			
Ukraine																			

8. Sub-paragraphs 1*b* and 1*c* accepted.
9. Sub-paragraphs *a* and *b* accepted.

Articles 20-31	Art.	Art.	Art.	Art.	Art.	Art.	Art. 26		Art. 27			Art	Art	Art	Art. 31		
Para.	20	21	22	23	24	25	1	2	1	2	3	28	29	30	1	2	3
Albania																	
Andorra																	
Armenia																	
Austria																	
Azerbaijan																	
Belgium																	
Bosnia and Herzegovina																	
Bulgaria																	
Cyprus			[10]														
Estonia																	
Finland																	
France																	
Georgia																	
Hungary																	
Ireland									[11]								
Italy																	
Latvia																	
Lithuania																	
Malta																	
Republic of Moldova																	
Montenegro									[12]								
Netherlands																	
Norway									[13]								
Portugal																	
Romania																	
Russian Federation																	
Serbia																	
Slovakia																	
Slovenia																	
Sweden																	
Turkey																	
"The former Yugoslav Republic of Macedonia"																	
Ukraine																	

10. Sub-paragraph *b* accepted.
11. Sub-paragraphs *a* and *b* accepted.
12. Sub-paragraph *a* accepted.
13. Sub-paragraph *c* accepted.

Acceptance of provisions of the European Social Charter (1961) and of the Additional Protocol (1988)

☐ accepted ☐ not accepted

Articles 1-7	Article 1				Article 2					Article 3			Article 4					Art.	Article 6				Article 7									
Para.	1	2	3	4	1	2	3	4	5	1	2	3	1	2	3	4	5	5	1	2	3	4	1	2	3	4	5	6	7	8	9	10
Croatia																																
Czech Republic																																
Denmark																																
Germany																																
Greece																																
Iceland																																
Luxembourg																																
Poland																																
Spain																																
United Kingdom																																

Articles 8-18	Article 8				Art.	Article 10				Article 11			Article 12				Article 13				Art. 14		Art. 15		Art.	Art.	Article 18			
Para.	1	2	3	4	9	1	2	3	4	1	2	3	1	2	3	4	1	2	3	4	1	2	1	2	16	17	1	2	3	4
Croatia																														
Czech Republic				[14]																										
Denmark																														
Germany																														
Greece																														
Iceland																														
Luxembourg																														
Poland				[15]																										
Spain				[16]																										
United Kingdom																														

Articles 19	Article 19									
Para.	1	2	3	4	5	6	7	8	9	10
Croatia										
Czech Republic										
Denmark										
Germany										
Greece										
Iceland										
Luxembourg										
Poland										
Spain										
United Kingdom										

Additional Protocol	Additional Protocol			
Para.	Art. 1	Art. 2	Art. 3	Art. 4

14. Czech Republic denounced paragraph 4 on 25 March 2008.
15. Poland denounced paragraph 4 on 27 January 2011.
16. Spain denounced sub-paragraph *b* with effect from 5 June 1991.

Appendix 4

Number of accepted provisions by year since 1962

Year of ratification	Charter 1961			Revised Charter 1996			Total of the accepted provisions
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1962	1. United Kingdom	60	60				60
	2. Norway	60	120				120
	3. Sweden	66	186				186
1963			186				186
1964	4. Ireland	63	249				249
1965	5. Germany	67	316				316
	6. Denmark	49	365				365
	7. Italy	76	441				441
1966			441				441
1967			441				441
1968	8. Cyprus	43	484				484
1969	9. Austria	62	546				546
1970			546				546
1971			546				546
1972			546				546
1973			546				546
1974	10. France	72	618				618
1975			618				618
1976	11. Iceland	41	659				659
1977			659				659

Year of ratification	Charter 1961			Revised Charter 1996			Total of the accepted provisions
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1978			659				659
1979			659				659
1980	12. Netherlands	75	734				734
	13. Spain	76	810				810
1981			810				810
1982			810				810
1983			810				810
1984	14. Greece	71	881				881
1985			881				881
1986			881				881
1987			881				881
1988	15. Malta	55	936				936
1989	16. Turkey	46	982				982
1990	17. Belgium	72	1054				1054
1991	18. Finland	66	1120				1120
	19. Portugal	72	1192				1192
	20. Luxembourg	69	1261				1261
1992			1261				1261
1993			1261				1261
1994			1261				1261
1995			1261				1261
1996			1261				1261
1997	21. Poland	58	1319				1319

Year of ratification	Charter 1961			Revised Charter 1996			Total of the accepted provisions
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1998		-66	1253	1. *Sweden*	83	83	1336
	22. Slovak Republic	64	1317			83	1400
1999		-72	1245	2. *France*	98	181	1426
	23. Hungary	44	1289	3. *Italy*	97	278	1567
	24. Czech Republic	56	1345	4. Romani	65	343	1688
		-76	1269	5. Slovenia	95	438	1707
2000			1269	6. Bulgaria	61	499	1768
			1269	7. Estonia	79	578	1847
		-43	1226	8. *Cyprus*	63	641	1867
		-63	1163	9. *Ireland*	93	734	1897
2001		-60	1103	10. *Norway*	81	815	1918
			1103	11. Lithuania	86	901	2004
			1103	12. Republic of Moldova	63	964	2067
2002		-72	1031	13. *Portugal*	98	1062	2093
		-66	965	14. *Finland*	89	1151	2116
	25. Latvia	25	990			1151	2141
			990	15. Albania	64	1215	2205
2003	26. Croatia	43	1033				1033
2004			1033	16. Armenia	67	1282	2315
		-72	961	17. *Belgium*	87	1369	2330
				18. Azerbaijan	47	1416	1416
			961	19. Andorra	75	1491	2452
2005	27. "The former Yougoslav Republic of Macedonia"	41	1002			1491	2493

Year of ratification	Charter 1961			Revised Charter 1996			Total of the accepted provisions
	States	Accepted provisions	Total	States	Accepted provisions	Total	
		-55	947	20. *Malta*	72	1563	2510
				21. Georgia	63	1626	1626
2006		-75	872	22. *Netherlands*	97	1723	2595
				23. Ukraine	74	1714	1714
2007		-46	826	24. *Turkey*	91	1888	2714
		-44	782	25. *Hungary*	60	1948	2730
				Bulgaria	1	1949	1949
2008				26. Bosnia and Herzegovina	51	2000	2000
2009		-64	718	27. *Slovak Republic*	86	2086	2804
				28. Serbia	88	2174	2174
				29. Russian Federation	67	2241	2241
2010				30. Montenegro	66	2307	2307
2011		-62	656	31. *Austria*	76	2383	3039
				Cyprus	9	2392	2392
2012		-41	615	32. "The former Yougoslav Republic of Macedonia"	60	2452	3067
				Estonia	8	2460	3075

(*) By order of ratification, States Parties to the Revised Charter (on a grey background with the former States Parties to the 1961 Charter in italics), and States Parties to the 1961 Charter (on a white background).

Appendix 5

List of collective complaints registered in 2012 and state of procedure as of 31 December 2012

Finnish Society of Social Rights (FSSR) v. Finland
Complaint No. 88/2012

The complaint was registered on 13 December 2012. The complainant association alleges that Finland has not maintained the social security at a satisfactory level and has not endeavored to raise progressively the system of social security to a higher level, in violation of Article 12 (the right to social security) of the European Social Charter.

International Planned Parenthood Federation European Network (IPPF EN) v. Italy
Complaint No. 87/2012

The complaint was registered on 9 August 2012. The complainant organization alleges that the formulation of Article 9 of Law No. 194 of 1978, which governs the conscientious objection of medical practitioners in relation to the termination of pregnancy, is in violation of Article 11 (the right to health) of the European Social Charter, read alone or in conjunction with the non-discrimination clause in Article E, in that it does not does not protect the right to access termination of pregnancy procedures.

The European Committee of Social Rights declared the complaint admissible on 22 October 2012.

European Federation of National Organizations working with the Homeless (FEANTSA) v. The Netherlands
Complaint No. 86/2012

The complaint was registered on 4 July 2012. The complainant organization alleges that The Netherlands' legislation, policy and practice regarding sheltering the homeless are not compatible with Articles 13 (right to social and medical assistance), 16 (right of the family to social, legal and economic protection), 17 (right of children and young persons to social, legal and economic protection), 19 (right of migrant workers and their families to protection and assistance), 30 (right to protection against poverty and social exclusion), 31 (right to housing), taken alone or in conjunction with Article E of the European Social Charter.

Swedish Trade Union Confederation (LO) and Swedish Confederation of Professional Employees (TCO) v. Sweden
Complaint No. 85/2012

The complaint was registered on 27 June 2012. The complainant trade unions allege that following the ECJ judgment in the Laval case (C-341/05), subsequent

amendments to Swedish legislation have restricted the rights to freedom of association and collective bargaining, in violation of Articles 4 (the right to a fair remuneration), 6 (the right to bargain collectively) and 19,4 (Equality regarding employment, right to organize and accommodation) of the European Social Charter.

Union syndicale des magistrats administratifs (USMA) v. France
Complaint No. 84/2012

The complaint was registered on 13 June 2012. The complainant organization alleges that the compensation rate for accumulated unused vacation days on time-saving accounts of administrative judges fails to take into account the right to increased remuneration of overtime work, in violation of Article 4§2 (the right to increased rate of remuneration for overtime work) of the European Social Charter.

European Confederation of Police (EUROCOP) v. Ireland
Complaint No. 83/2012

The complaint was registered on 7 June 2012. The complainant organization alleges that police representative associations in Ireland, and more specifically, the Association of Garda Sergeants and Inspectors (AGSI), do not enjoy full trade unions rights, which include, in particular, the right to join an umbrella organization and the right to bargain collectively. The complainant organization alleges a violation of Articles 5 (the right to organize), 6 (the right to bargain collectively), and 21 (the right to information and consultation) of the European Social Charter.

Comité européen d'action spécialisée pour l'Enfant et la Famille dans leur milieu de vie (EUROCEF) v. France
Complaint No. 82/2012

The complaint was registered on 4 April 2012. It concerns the suspension of family allowances in cases of truancy, in application of the laws of 28 September 2010 and 24 March 2011. The complainant organization alleges that France does not comply with its obligations under Articles 16 (right to appropriate social, legal and economic protection for the family) and 30 (right to protection against poverty and social exclusion), taken alone or in combination with Article E (non-discrimination) of the European Social Charter.

Action européenne des handicapés (AEH) v. France
Complaint No. 81/2012

The complaint was registered on 3 April 2012. It concerns the problems regarding access of autistic children and adolescents to education and access of young adults with autism to vocational training. The complainant organization alleges that France does not comply with its obligations under Articles 10 (right to vocational training), 15 (right of persons with disabilities to independence, social integration and participation in the life of the community), taken alone or in combination with Article E (non-discrimination) of the European Social Charter (Revised).

The European Committee of Social Rights declared the complaint admissible on 12 September 2012.

Pensioner's Union of the Agricultural Bank of Greece (ATE) v. Greece
Complaint No. 80/2012

The complaint was registered on 2 January 2012. It concerns recent legislation in Greece which imposes a reduction of pensions primarily in the public sector. The complainant organization alleges that these laws were adopted in violation of Articles 12§3 (Right to social security) and 31§1 (Restrictions) of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 23 May 2012.

The European Committee of Social Rights has adopted its decision on the merits on 7 Décember 2012.

Panhellenic Federation of pensioners of the public electricity corporation (POS-DEI) v. Greece
Complaint No. 79/2012

The complaint was registered on 2 January 2012. It concerns recent legislation in Greece which imposes a reduction of pensions primarily in the public sector. The complainant organization alleges that these laws were adopted in violation of Articles 12§3 (Right to social security) and 31§1 (Restrictions) of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 23 May 2012.

The European Committee of Social Rights has adopted its decision on the merits on 7 Décember 2012.

Pensioners' Union of the Athens-Piraeus Electric Railways (I.S.A.P.) v. Greece
Complaint No. 78/2012

The complaint was registered on 2 January 2012. It concerns recent legislation in Greece which imposes a reduction of pensions primarily in the public sector. The complainant organization alleges that these laws are in violation of Articles 12§3 (Right to social security) and 31§1 (Restrictions) of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 23 May 2012.

The European Committee of Social Rights has adopted its decision on the merits on 7 Décember 2012.

Panhellenic Federation of Public Service Pensioners v. Greece
Complaint No. 77/2012

The complaint was registered on 2 January 2012. It concerns recent legislation in Greece which imposes a reduction of pensions primarily in the public sector. The complainant organization alleges that these laws were adopted in violation of Articles 12§3 (Right to social security) and 31§1 (Restrictions) of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 23 May 2012.

The European Committee of Social Rights has adopted its decision on the merits on 7 Décember 2012.

Federation of employed pensioners of Greece ((IKA –ETAM) v. Greece
Complaint No. 76/2012

The complaint was registered on 2 January 2012. The complainant trade union alleges that recent legislation passed in Greece (Law No. 3845 of 6 May 2010, Law No. 3847 of 11 May 2010, Law No. 3863 of 15 July 2010, Law No. 3865 of 21 July 2010, Law No.3896 of 1 July 2011 and Law No. 4024 of 27 October 2011) impose a reduction in pension schemes, both in the private and public sectors, and were adopted in violation are in violation of Articles 12§3 (Right to social security) and 31§1 (Restrictions) of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 23 May 2012.

The European Committee of Social Rights has adopted its decision on the merits on 7 Décember 2012.

List of resolutions adopted by the Committee of Ministers in 2012

CM/ResChS(2012)6F / 28 November 2012

Resolution – *Syndicat de Défense des fonctionnaires* against France – Collective Complaint No. 73/2011 (adopted by the Committee of Ministers on 28 November 2012 at the 1156th meeting of the Ministers' Deputies)

CM/ResChS(2012)4F / 10 October 2012

Resolution – Confederation of Independent Trade Unions in Bulgaria (CITUB), Confederation of Labour "Podkrepa" (CL "Podkrepa") and European Trade Union Confederation (ETUC) against Bulgaria, Complaint No. 32/2005 (adopted by the Committee of Ministers on 10 October 2012 at the 1152nd meeting of the Ministers' Deputies)

CM/ResChS(2012)3F / 4 April 2012

Resolution – Collective Complaint No. 59/2009 by the European Trade Union Confederation (ETUC), *Centrale générale des syndicats libéraux de Belgique (CGSLB), Confédération des syndicats chrétiens de Belgique (CSC) and Fédération générale du travail de Belgique (FGTB)* against Belgium (adopted by the Committee of Ministers on 4 April 2012 at the 1139th meeting of the Ministers' Deputies)

Number of decisions handed down by the European Committee of Social Rights 1998-2012

Years	Registered complaints	Decisions on admissibility	Decisions on the merits	Decisions to strike out	Total decisions
1998	1	0	0	0	**0**
1999	5	2	1	0	**3**
2000	4	7	5	0	**12**
2001	1	2	3	0	**5**
2002	2	2	1	0	**3**
2003	10	8	2	0	**10**
2004	5	6	10	0	**16**
2005	4	5	4	0	**9**
2006	7	5	4	0	**9**
2007	7	7	5	0	**12**
2008	8	8	5	1	**14**
2009	5	7	7	0	**14**
2010	4	3	6	0	**9**
2011	12	11	4	0	**15**
2012	13	9	15	0	**24**
Total	**88**	**82**	**72**	**1**	**155**

Appendix 6

Summary of the Committee's Conclusions for 2012

1. European Social Charter (revised)– Conclusions 2012

Article	Albania	Andora	Armenia	Azerbaijan	Belgium	Bulgaria	Bosnia and Herzegovina	Cyprus	Estonia	Finland	France	Georgia	Hungary	Ireland	Italy	Lithuania	Republic of Moldova	Malta	Montenegro	Netherlands	Norway	Portugal	Romania	Russian Federation	Serbia	Slovakia	Slovenia	Sweden	Turkey	Ukraine
Article 1.1	-	+	-	+	+	-	-	+	0	+	+	-		0	-	0	-	0	0	+	+	0	0	0	0	-	+	+	-	0
Article 1.2	-	0	-	-	-	-	0	-	0	+	0	-		-	-	+	-	+	0	+	+	-	+	0	0	-	+	+	-	0
Article 1.3	-	+	0	0	+	+	0	0	+	+	+	0		0	+	+	+	+	0	+	+	-	+	0	0	-	+	+	+	0
Article 1.4	+	-	+	-	-	-	0	0	-	0	+	-		-	+	+	-	0	0	+	+		0	0	0	-	-	+	0	0
Article 9		+		-	+		0	+	-	+	+			-	+	+	-	0	0	+	+	+	+	0	0	-	+	+	+	0
Article 10.1		+			+			0	+	+	0			-	+	+		+	0	+	+	+		+	0	-	0	+	+	0
Article 10.2		+			+			+		+	+	0		+	+	+		0	0	+	+	+		0	0	-	0	+	+	0
Article 10.3		+			-			0	+	0	+			-	+	+		0	0	+	+	+		+	0	-	0	+	+	0
Article 10.4		+			-			+	+	+	0	-		+	+	+		+	0	+	+	-		+	0	0	+	+	0	0
Article 10.5		+			-			-		-	-			-	+	+		+		+	-	0		0	0		0	-	0	0
Article 15.1		-			-			0	+	+	-			+	+	+	-	+	0	+	+	+	0	0	0	-	-	+	0	0
Article 15.2		-	-		-			-	+	+	0			+	0	+	-	0	0	-	+	+	+	0	0	-	-	+	0	0
Article 15.3		-	-		0			-	-	+	0	-		0	+	+		+	0	+	+	+			0		+	+	0	0
Article 18.1			+		+					+	-	+		0	-	+				+		-			0	-	+	+	+	0

Article	Albania	Andora	Armenia	Azerbaijan	Belgium	Bulgaria	Bosnia and Herzegovina	Cyprus	Estonia	Finland	France	Georgia	Hungary	Ireland	Italy	Lithuania	Republic of Moldova	Malta	Montenegro	Netherlands	Norway	Portugal	Romania	Russian Federation	Serbia	Slovakia	Slovenia	Sweden	Turkey	Ukraine
Article 18.2			-		+					+	0	+		-	0					+		+			+	-		+	-	0
Article 18.3			+		-					+	+	+		0	+		-			0		+	0		0		0	+	-	0
Article 18.4		+	+		+	+		+		+	+	+		+	+	+	+	+		+		+	-	0	0	+	+	+	-	0
Article 20	0	0	0	-	+	-	-	-	+	+	-	-		+	+	+	-	0	0	+	+	-	0	0	0	-	+	+	-	0
Article 24	-		-	+		-		-	0	-	0			-	+	+	0	-	0	-	-	0	0	0		0	0		-	0
Article 25	-				-	0			+	+	+			0		-		0				0	-		0	+	+	+	-	

+ Conformity	- Non-conformity	0 Deferral	□ Non-accepted provision

2. 1961 European Social Charter – Conclusions XX-1 (2012)

Article	Austria	Czech Republic	Germany	Denmark	Spain	United Kingdom	Greece	Croatia	Iceland	Luxembourg	Latvia	"The Former Yugoslav Republic of Macedonia"	Poland	Netherlands Carribean Part	Netherlands Curacao
Article 1.1	+	0	+	+	0	0	-	-	0	+	-	-	+	0	0
Article 1.2	-	+	-	+	-	+	-	-	-	-	-	-	0	0	0
Article 1.3	+	-	+	+	-	+	0	+	+	0	+	+	+	0	0
Article 1.4	0		+	+		+	+	-	0	-	+	-	-	0	0
Article 9	0		+	+	+	+	+	-		+			+		
Article 10.1	-		+	+	0	+	-			+			+		
Article 10.2	+		+	+	+	+	+			+			+		
Article 10.3	+		+	+	+	+	+			+					
Article 10.4	-			-	-	-	+			0					
Article 15.1	0		+	-	+	+	0		-	-		-	+		
Article 15.2	0	0	+	+	+	+	-		-	-		-	+		
Article 18.1	+		0	+	0	0	-		+	0					
Article 18.2	+		+	0	+	-	-		-	+					
Article 18.3			0	+	+	-	0		0	+					
Article 18.4	+	+	+	+	+	+	+		+	+			+		
Article 1 of the 1988 Additional Protocol				0	+		0	+						0	0

+ Conformity	- Non-conformity	0 Deferral	☐ Non-accepted provision

3. Overview of the Conclusions by year

	2012	2011	2010	2009	2008	2007	2006	2005
Examined situations	608	950	569	572	425	839	915	685
Conformity	277	459	271	281	185	363	461	305
	45,56 %	48,31 %	47,63 %	49,13 %	43,52 %	43,27 %	50,38 %	43,79 %
Non-conformity	156	256	184	164	126	230	244	126
	25,66 %	26,95 %	32,34 %	28,67 %	29,64 %	27,41 %	26,66 %	18,39 %
Deferral	175	235	114	127	114	246	210	254
	28,78 %	24,74 %	20,03 %	22,20 %	26,82 %	29,32 %	22,95 %	37,08 %

4. Conclusions by State

State	Total	+	-	0
Albania	7	1	5	1
Andorra	15	9	4	2
Armenia	12	4	6	2
Austria	14	7	3	4
Azerbaijan	7	2	4	1
Belgium	19	9	9	1
Bosnia and Herzegovina	6	0	2	4
Bulgaria	8	2	5	1
Croatia	6	2	4	0
Cyprus	16	5	6	5
Czech Republic	6	2	2	2
Denmark	16	12	2	2
Estonia	14	8	3	3
Finland	20	16	2	2
France	20	9	4	7
Georgia	12	4	6	2
Germany	14	11	1	2
Greece	16	6	6	4
Iceland	10	3	4	3
Ireland	20	6	8	6
Italy	19	13	4	2
Latvia	5	3	2	0
Lithuania	18	16	1	1
Luxembourg	15	8	4	3
Malta	17	7	1	9
Moldova	11	2	8	1
Montenegro	14	0	0	14
Netherlands	20	17	2	1
Nl Caribbean	5	0	0	5
Nl Curacao	5	0	0	5
Norway	16	14	2	0
Poland	10	8	1	1
Portugal	20	12	5	3

State	Total	+	-	0
Romania	12	3	2	7
Russian Federation	15	3	1	11
Serbia	19	0	0	19
Slovakia	18	2	14	2
Slovenia	19	9	4	6
Spain	15	9	3	3
Sweden	19	18	1	0
"The Former Yugoslav Republic Macedonia"	6	1	5	0
Turkey	20	7	7	6
Ukraine	19	0	0	19
United Kingdom	15	10	3	2
Total	608	277	156	175

Appendix 7

Selection of conclusions of non-conformity 2012 for the attention of the Parliamentary Assembly

Introductory remarks

One of the main conclusions of the meeting held in Strasbourg on 6 October 2011 under the auspices of the Committee on Social Affairs, Health and Sustainable Development on "non-discrimination and equal opportunities in the enjoyment of social rights" in the context of the 50th anniversary of the European Social Charter was that the cooperation between the European Committee of Social Rights and the relevant committees of the Parliamentary Assembly should be strengthened.

In this respect it was suggested that one of the means of reinforcing the cooperation could consist in having the European Committee of Social Rights directly transmit to the Parliamentary Assembly the decisions and conclusions of non-conformity whose effective follow-up and implementation required governments and national parliament to take appropriate measures and/or draw the attention of the Assembly to such decisions and conclusions. In this way, taking into account their two-fold mandate, European and national, the members of the Assembly would be able to contribute decisively to the implementation of the conclusions of non-conformity adopted by the Committee.

The present contribution has been drawn up in the spirit of Resolution 1824 (2011) on "The role of parliaments in the consolidation and development of social rights in Europe" (adopted by the Assembly on 23 June 2011) as well as of the Declaration of the Committee of Ministers on the 50th Anniversary of the European Social Charter (adopted by the Committee of Ministers on 12 October 2011 during the 1123rd meeting of the Ministers' Deputies). In this respect the members of the Parliamentary Assembly have, due to the two-fold nature of their mandate, European and national, a privileged position and a major responsibility in furthering acceptance of the collective complaints procedure and ratification of the Revised European Social Charter in their respective countries.

The European Committee of Social Rights is delighted to be part of this form of cooperation and it wishes to thank the Parliamentary Assembly for developing its vital role in highlighting the importance for States of accepting the collective complaints procedure as well as the Revised Charter thereby strengthening the social aspects of democracy and the guarantee of social rights at national level.

Herewith follows a selection of conclusions of non-conformity 2012 in respect of which legislative measures are necessary in order to render effective the application of the Charter at national level.

1996 Revised European Social Charter

Albania

Art. 24: The maximum compensation for unlawful termination of employment is inadequate and the legislation does not provide for the possibility of reinstatement in the private sector.

[The Committee has noted that pursuant to Article 146§3 of the Labour Code when the termination of an employment contract is considered to be invalid, the employer shall be under an obligation to pay the employee a compensation of up to maximum one year's salary. The Committee has hold that this situation is contrary to the Charter as the compensation for unlawful dismissal was subject to a maximum of one year's wages]

Art. 25: Workers claims are not effectively protected in case of insolvency of their employer under the privilege system alone.

[There is no alternative to the privilege system, which in it itself does not provide effective guarantee of protection of workers' claims in situations where the employer no longer has any assets].

Andorra

Art. 15§3: It has not been established that housing, transport and telecommunications are covered by the anti-discrimination legislation.

Armenia

Art. 1§2: The duration of alternative labour service replacing military service amounts to an excessive restriction on the right to earn one's living in an occupation freely entered upon.

[Military service in Armenia lasts for 2 years. Article 2 of the Law on alternative service provides for two different alternative services: alternative military service and alternative labour service. Article 5 of the Law states that the term for alternative military service is 36 months and the term for alternative labour service is 42 months. The Committee finds that 42 months for alternative labour service amounts to an excessive restriction on the right to earn one's living in an occupation freely entered upon and is therefore not in conformity with the Charter].

Article 15§3 : It has not been established that there is legislation ensuring people with disabilities effective protection against discrimination in the fields of housing, transport, telecommunications, culture and leisure activities.

Art. 18§2: The level of fees for residence permits is excessive.

[The Committee notes that certain categories of persons may be exempted from the payment of such fees, but however, their level has remained the same in the reference period (€ 281 for a temporary permit and €321 for a permanent permit). The Committee recalls that chancery dues and other charges for permits must not

be excessive and in any event, must not exceed the administrative cost incurred in issuing them. According to Article 18§2 of the Charter, with a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, States Parties are under an obligation to reduce or abolish chancery dues and other charges paid either by foreign workers or by their employers. The Committee observes that 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].

Art. 24: The termination of employment on the sole ground that the person has reached the pensionable age, which is permitted by law, is not justified; and the maximum compensation for unlawful termination of employment is inadequate.

[Pursuant to Article 113 of the Labour Code the employers have the right to terminate employment prior to the expiry of employment contract when the employee reaches retirement age. The Committee recalls that according to the Appendix to the Charter, for the purposes of Article 24 the term 'termination of employment' means termination of employment at the initiative of the employer. Therefore, situations where a mandatory retirement age is set by statute, as a consequence of which the employment relationship automatically ceases by operation of law, do not fall within the scope of this provision. The Committee further recalls that Article 24 establishes in an exhaustive manner the valid grounds on which an employer can terminate an employment relationship. Two types of grounds are considered valid, namely on the one hand those connected with the capacity or conduct of the employee and on the other hand those based on the operational requirements of the enterprise (economic reasons).The Committee holds that under Article 24 dismissal of the employee at the initiative of the employer on the ground that the former has reached the normal pensionable age (age when an individual becomes entitled to a pension) will be contrary to the Charter, unless the termination is properly justified with reference to one of the valid grounds expressly established by this provision of the Charter. The Committee holds that the situation is not in conformity with the Charter as the termination of employment at the initiative of the employer on the sole ground that they have the pensionable age, which is permitted by law, is not justified].

[The report states that according to Article 265 of the Labour Code, as amended (HO-117-N of 15 July 2010) if the court decides that the employment contract was dissolved in the absence of lawful grounds or in violation of the procedure defined by the legislation, the employee may be reinstated if the restoration of employment relations between the employer and the employee is possible. If such action is impossible due to economic, technological or organizational issues, then the employer will be obliged to pay compensation in the amount not less than the double of the average salary but not more than 12 times the average salary. The Committee recalls that Article 24 of the Revised Charter requires that courts or other competent bodies are able to order adequate compensation, reinstatement

or other appropriate relief. In order to be considered appropriate, compensation should include reimbursement of financial losses incurred between the date of dismissal and the decision of the appeal body ruling on the lawfulness of the dismissal, the possibility of reinstatement and/or compensation sufficient both to deter the employer and proportionate to the damage suffered by the victim. The Committee holds that the situation is not in conformity with the Charter as the maximum compensation for unlawful dismissal is inadequate].

Azerbaijan

Art. 1§2: There is no shift in the burden of proof in discrimination cases, and the prohibition on foreign nationals being employed in the civil service goes beyond that permitted by the Charter.

[As regards discrimination on grounds of nationality the Committee notes that positions in the civil service are reserved for citizens of the Azerbaijan Republic, this is irrespective of the powers or authority of the post].

Art. 20: There is no shift in the burden of proof in gender discrimination cases, and legislation prohibits the employment of women in underground mining and other "labour intensive jobs".

Belgium

Art. 1§2: The restrictions on foreigners non-nationals of EEA member states or Swiss nationals occupying posts in the federal civil service go beyond those permitted by the Charter.

[According to the national report, it was not possible to give a complete list of jobs in the federal public service that are closed to non-nationals, as it is for each Ministry or organ to decide on the basis of individual jobs whether or not the job involves the exercise of public authority. The reports stated, however, that all jobs involving the power to determine violations of legislation, the power to address warnings or commence criminal proceedings were restricted to nationals. The report added that functions related to health and safety at work, social security and social assistance were also restricted to nationals. The Committee noted previously (Conclusions 2008) that such an application of the definition of public authority might be overly broad and asked for more detailed information on the situation, in particular the existence of any guidelines or such like on whether a job could be classified as involving the exercise of public authority. It further asked whether the functions related to health and safety at work, social security and social assistance mentioned above are all functions whose exercise may lead to the use of the penal law or which, in any other way, involve strictly speaking the exercise of public authority. The current report however simply repeats information provided previously].

Art. 18§3: The foreign worker's residence permit may be revoked if he/she loses his/her job and he/she may be obliged to leave the country as soon as possible.

[The Committee observes that both the granting and the cancellation of work and temporary residence permits may well be interlinked, in as much as they refer to the same case in question- whether or not to enable a foreigner to engage in a gainful occupation. However, in case a work permit is revoked before the date of expiry, either because the work contract is prematurely terminated, or because the worker no longer meets the conditions under which the work permit was granted, it would be contrary to the Charter to automatically deprive such worker of the possibility to continue to reside in the State concerned and to seek another job and a new work permit, unless there are exceptional circumstances which would authorise expulsion of the foreign worker concerned, in the meaning of Article 19§8].

Bosnia and Herzegovina

Art. 20: Women are prohibited from working in underground mining.

Bulgaria

Art. 1§2: Swiss nationals and nationals of States Parties to the European Social Charter which are not members of the European Union or of the European Economic Area may not be employed in public service posts, which constitutes discrimination on grounds of nationality; and the upper limit on the amount of compensation that may be awarded in discrimination cases may preclude damages from making good the loss suffered and from being sufficiently dissuasive.

Art. 20: There is a predetermined upper limit on compensation for employees who are dismissed as a result of sex discrimination which may preclude damages from making good the loss suffered and from being sufficiently dissuasive.

Art. 24: Employees undergoing a probationary period of 6 months are not protected against dismissal; the termination of employment at the initiative of the employer for some categories of employees, on the sole ground that they have the pensionable age, which is permitted by law, is not justified, and the maximum amount of compensation for unlawful dismissal is not adequate.

[With the amendment of the Labour Code (SG 7 of 2012) the employer can no longer terminate the employment relationship on the ground that the person has acquired the pension entitlement. The employer may terminate an employment contract with notice upon reaching 65 years of age for professors, associate professors and doctors of science. The Committee recalls that according to the Appendix to the Charter, for the purposes of Article 24 the term 'termination of employment' means termination of employment at the initiative of the employer. Therefore, situations where a mandatory retirement age is set by statute, as a consequence of which the employment relationship automatically ceases by operation of law, do not fall within the scope of this provision. The Committee further recalls that Article 24 establishes in an exhaustive manner the valid grounds on which an employer can terminate an employment relationship. Two types of grounds are considered valid, namely on the one hand those connected with the capacity or conduct of the employee and on the other hand those based on the operational requirements

of the enterprise (economic reasons). The Committee holds that under Article 24 dismissal of the employee at the initiative of the employer on the ground that the former has reached the normal pensionable age (age when an individual becomes entitled to a pension) will be contrary to the Charter, unless the termination is properly justified with reference to one of the valid grounds expressly established by this provision of the Charter. The Committee holds that the termination of employment at the initiative of the employer for some categories of employees, on the sole ground that they have the pensionable age, which is permitted by law, is not justified].

[The Committee previously held that the situation was not in conformity with the Charter as compensation for an unlawful dismissal was subject to a maximum of six months' wages. In this regard the Committee notes from the report of the Governmental Committee to the Committee of Ministers (TS-G (2010) 6, § 245) that a bill had been prepared with a view to amending the Labour Code and entirely removing the limits to compensation in such cases. According to the representative of Bulgaria, the bill would soon be presented to the National Council for Tripartite Cooperation in order to be discussed with the social partners. It would subsequently be presented to the National Assembly for adoption. If the procedure was followed without delays it could be expected that the amendments would be adopted by the National Assembly and would enter into force in no later than 6 months, thus resolving the situation of non-conformity. The Committee further notes from the report, however, there has been no follow up to these developments and the compensation for unlawful dismissal is still limited to 6 months' wage. According to the report, removing the cap on compensation would either dissuade the worker to look for a new job or would make the employer dependent on the efficiency of the judicial system. The Committee reiterates its previous finding of non-conformity on the ground that the maximum amount of compensation for unlawful dismissal is not adequate].

Cyprus

Art. 1§2: The duration of alternative military service amounting to almost three years is excessive and constitutes a disproportionate restriction on the right to earn a living freely entered upon.

Art. 20: The employment of women in underground mining is prohibited.

Art. 24: The categories of persons excluded from protection go beyond what is allowed under the Appendix to the Charter; and the employees who have not been employed with their employer for a continuous period of 26 weeks are not entitled to protection against dismissal.

[The Committee notes from the report that the protection afforded under the Termination of Employment Law no longer applies when the employee reaches pensionable age. The Committee holds that this situation is contrary to the Charter

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

Estonia

Art. 1§4 and Art. 9: Career counselling services in the labour market are accessible only to unemployed persons and workers given notice of redundancy.

Art. 15§3: There is no anti-discrimination legislation to protect persons with disabilities which explicitly covers the fields of housing, transport, telecommunications and cultural and leisure activities.

Finland

Art. 10§5: Nationals of other States Parties lawfully resident in Finland are not treated equally with respect to financial assistance for training.

[The report states that under Finnish legislation, student financial aid is not granted to persons who move to Finland for study purposes, irrespective of the form of residence permit].

Art. 24: The legislation does not provide for the possibility of reinstatement in case of unlawful dismissal.

France

Art. 10§5: Equal treatment of nationals of other States Parties lawfully resident or regularly working in France is not guaranteed as regards access to scholarships granted on the basis of social criteria for higher education.

Art. 20: Legislation only permits equal pay comparisons between employees working for the same company or undertaking.

[The principle of equal pay for work of equal value cannot be invoked in respect of persons working for different enterprises even if covered by the same collective agreement and, therefore, the Committee finds that the situation is not in conformity with the Charter].

Ireland

Art. 1§2: The upper limits on the amount of compensation that may be awarded in discrimination cases (with the exception of gender discrimination cases) may preclude damages from making good the loss suffered and from being sufficiently dissuasive; and army officers cannot seek early termination of their commission unless they repay to the state at least part of the cost of their education and training, and the decision to grant early retirement is left to the discretion of the Minister of Defence, which could lead to a period of service which would be too long to be regarded as compatible with the freedom to choose and leave an occupation.

Art. 1§4, Art. 9 et Art. 10§3: Equal access to continuing vocational guidance for nationals of the other States Parties which are not members of the European Union is not guaranteed; and here is indirect discrimination of nationals of other States

Parties residing or working lawfully in the country due to the length of residence condition (for access to continuing guidance and vocational training).

Art. 10§1: The indirect discrimination of nationals of other States Parties due to the length of residence requirements does not guarantee equal access to higher education for all.

Art. 10§5: Nationals of other States Parties lawfully resident or working in Ireland are not treated equally with respect to fees (non-EU nationals) and financial assistance (EU and non-EU nationals) for training.

Art. 24: Legislation permits the exclusion of employees from protection against dismissal for one year during the probationary period; and employees having reached the normal retiring age are excluded from the protection of the Unfair Dismissals legislation which goes beyond what is permitted by the Appendix to the Charter.

[The Committee recalls that under Article 24 of the Charter all workers who have signed an employment contract are entitled to protection in the event of termination of employment. According to the Appendix to the Charter, certain categories of workers can be excluded, among them workers undergoing a period of probation.

The Committee notes from the report that some categories of employees are not covered by the Unfair Dismissal legislation, such as: employees with less than one year's continuous service; employees who had reached the normal retiring age; employees working for a close relative in a private house or farm; members of the Garda Siochana and the Defence Forces; persons undergoing training by the National Training and Employment Authority; managers of local authorities.

As regards exclusion of employees undergoing a period of probation, according to the report, for this exclusion to apply, a written employment contract must be in place and the duration of the probation must be one year or less and be specified in the employment contract. An employee must have been in the same employment for at least a year in order to bring a claim for unfair dismissal. However, an employee with less than 12 months' continuous service can still bring a claim for unfair dismissal if the dismissal resulted from trade union membership or any matters connected with pregnancy or birth.

In this regard, the Committee recalls that under Article 24 exclusion of employees from protection against dismissal for six months or 26 weeks during the probationary period is not reasonable if applied indiscriminately, regardless of the employee's qualification (Conclusions 2005, Cyprus). The Committee considers that one year period of exclusion is manifestly unreasonable and therefore the situation in Ireland is not in conformity with the Charter on this ground.

As regards exclusion of employees having reached the normal retiring age from the protection of the Unfair Dismissals legislation, the Committee holds that such exclusion is contrary to the Charter as it goes beyond what is permitted by the Appendix to the Charter. Therefore, the situation is not in conformity on this ground].

Italy

Art. 1§2: Access for non-EU nationals of States Parties to public service employment is excessively restricted; and the Navigation Code provides for criminal penalties against seafarers and civil aviation personnel who desert their post or refuse to obey orders, even in cases where there is no threat to the safety of the vessel or aircraft.

[As concerns foreign nationals' access to public service employment, the Committee recalls its previous conclusion (Conclusions 2008) in which it noted that the regulation setting out the rules governing access to public service employment (D.P.R. No. 487 of 9 May 1994) prevents nationals of non-European Union States Parties from filling certain public service posts, some of which are unrelated to national security or the exercise of public authority for the protection of law and order. The Committee considered that this regulation places excessive restrictions on access to public service employment for nationals of non-European Union States Parties. There has been no change in the situation].

Art. 24: Employees undergoing the probationary period of 6 months are not adequately protected against dismissal.

[The employees still do not have the right to a notice period or to payment of compensation in the event of dismissal, but the employer does have the obligation of motivating the dismissal].

Lithuania

Art. 25: The average time to satisfy workers' claim in case of insolvency of their employer is excessive (twelve months).

Republic of Moldova

Art. 1§2: Discrimination on the ground of age and sexual orientation are not prohibited; nationals of other States Parties do not have access to civil service jobs; and exceptions to the general prohibition of forced labour are too wide.

[In relation to this last ground of non-conformity, the Committee has noted that Article 7 of the Labour Code places a general ban on forced labour, except for persons performing military service, non-military national service, prison labour, work in the context of natural disasters or work forming part of ordinary civic duties. The Committee considers that the last of these exceptions to the general prohibition of forced labour is too wide and without further information on how it is to be interpreted, not in conformity with the Charter].

Art. 15§1: There is no legislation explicitly protecting persons with disabilities from discrimination in education and training.

Art. 18§3: Termination of employment contract of the foreign worker leads to cancellation of the temporary residence permit thus obliging him/her to leave the country as soon as possible.

[The Committee observes that both the granting and the cancellation of work and temporary residence permits may well be interlinked, in as much as they refer to the same case in question- whether or not to enable a foreigner to engage in a gainful occupation. However, in case a work permit is revoked before the date of expiry, either because the work contract is prematurely terminated, or because the worker no longer meets the conditions under which the work permit was granted, it would be contrary to the Charter to automatically deprive such worker of the possibility to continue to reside in the State concerned and to seek another job and a new work permit, unless there are exceptional circumstances which would authorise expulsion of the foreign worker concerned, in the meaning of Article 19§8].

Art. 20: The legislation prohibits the employment of women in heavy work and in underground work.

The Netherlands (Kingdom in Europe)

Art. 24: The termination of employment on the sole ground that the person has reached the pensionable age, which is permitted by law, is not justified.

[The Committee recalls that according to the Appendix to the Charter, for the purposes of Article 24 the term 'termination of employment' means termination of employment at the initiative of the employer. Therefore, situations where a mandatory retirement age is set by statute, as a consequence of which the employment relationship automatically ceases by operation of law, do not fall within the scope of this provision. The Committee further recalls that Article 24 establishes in an exhaustive manner the valid grounds on which an employer can terminate an employment relationship. Two types of grounds are considered valid, namely on the one hand those connected with the capacity or conduct of the employee and on the other hand those based on the operational requirements of the enterprise (economic reasons). The Committee holds that under Article 24 dismissal of the employee at the initiative of the employer on the ground that the former has reached the normal pensionable age (age when an individual becomes entitled to a pension) will be contrary to the Charter, unless the termination is properly justified with reference to one of the valid grounds expressly established by this provision of the Charter. The Committee thus holds that the situation in the Netherlands is not in conformity with the Charter as the termination of employment on the sole ground that the person has reached the pensionable age, which is permitted by law, is not justified].

Norway

Art. 10§5: A length of residence and employment requirement is imposed on nationals of certain other States Parties lawfully resident or regularly working in Norway as a condition for entitlement to financial assistance for education.

[Although financial assistance can be subject to different conditions, such as a means-test or an assessment of merit, these conditions must be applied in a manner that respects the principle of equal treatment of non-nationals lawfully resident

or regularly working in the territory (it being understood that the principle does not apply to students who entered the territory for the sole purpose of attending training). As this is not the case in Norway due to the existence of a length of residence and employment requirement for non-EEA nationals the Committee finds the situation be in violation of the Charter].

Portugal

Art. 1§2: The Merchant Navy Criminal and Disciplinary Code provide for prison sentences against seafarers who abandon their posts even when the safety of the ship or the lives or health of the people on board are not at stake.

[The Committee has previously found that the situation in Portugal is not in conformity with Article 1§2 of the Revised Charter because Articles 132 and 133 of the Merchant Navy Criminal and Disciplinary Code provide for sanctions against seafarers who abandon their posts, in particular prison sentences. Articles 132 and 133 may still be applied in circumstances which go beyond those allowed under Article G of the Charter because, in certain cases, crew members directly concerned with the maintenance, security or regular operation of a vessel can leave it without endangering the safety of the vessel or the life and health of those on board. The Committee therefore reiterates its finding of non-conformity].

Art. 20: In equal pay cases, legislation only permits comparisons of pay between employees working for the same company.

[The principle of equal pay for work of equal value cannot be invoked in respect of persons working for different enterprises even if covered by the same collective agreement and, therefore, the Committee finds that the situation is not in conformity with the Charter].

Romania

Art. 18§3: The lack of simplification of formalities for obtaining work and residence permits still represents a serious obstacle for foreign workers to access national labour markets; and the loss of employment leads to the cancellation of the residence permit thereby obliging foreign workers to leave the country.

[In its previous conclusion (Conclusions 2008) the Committee held that the situation was not in conformity with the Charter as formalities for the granting of temporary residence permits had not been simplified and there are two distinct procedures for issuing work and residence permits. It notes that there have been no changes to this situation. Therefore, it reiterates its previous conclusion of non-conformity on this ground as the lack of simplification of formalities for obtaining work and residence permits still represents a serious obstacle for foreign workers to access national labour markets].

[The Committee notes from the report that according to Ministerial Decree No. 56/2007, if the work permit of a foreign worker is cancelled due to termination of employment contract, foreign worker can work with another employer only if issued

a new work permit. However, cancellation of the employment authorisation of the foreign worker also terminates his/her right to stay in Romania therefore obliging him/her to leave the country. The Committee observes that both the granting and the cancellation of work and temporary residence permits may well be interlinked, in as much as they refer to the same case in question, whether or not to enable a foreigner to engage in a gainful occupation. However, in case a work permit is revoked before the date of expiry, either because the work contract is prematurely terminated, or because the worker no longer meets the conditions under which the work permit was granted, it would be contrary to the Charter to automatically deprive such worker of the possibility to continue to reside in the State concerned and to seek another job and a new work permit, unless there are exceptional circumstances which would authorise expulsion of the foreign worker concerned, in the meaning of Article 19§8. The Committee considers that the situation is not in conformity with the Charter as the loss of employment leads to the cancellation of residence permit thus obliging the foreign worker to leave the country].

Russian Federation

Art. 18§4: The law provides for prohibition to leave the country which is not justified within the meaning of Article G of the Charter.

[Pursuant to Article 2 of Federal Law No. 114-ФЗ dated August 15, 1996 On the Procedure for Leaving and Entering the Russian Federation, a national of the Russian Federation may not be restricted in the right to leave the Russian Federation apart from on the grounds and in the manner provided for by the Federal Law. Article 15 of the above mentioned law stipulates that the right of a citizen of the Russian Federation to leave the Russian Federation may temporarily be restricted in cases where he/she has access to data of special importance or to top secret data constituting a state secret in accordance with the law of the Russian Federation on state secrets, and has concluded an employment agreement (contract) stipulating a temporary restriction of the right to leave the Russian Federation, provided that the period of restriction cannot exceed five years from the date the individual was last exposed to the data of special importance or to top secret data – until the expiration period of the restriction established by the employment agreement (contract) or in accordance with the present Federal Law hereby. In this connection the Committee recalls that under Article 18§4 of the Charter, States undertake not to restrict the right of their nationals to leave the country with a view to engaging in a gainful occupation in other Parties to the Charter. The only permitted restrictions are those provided for in Article G of the Charter, i.e. those which are "prescribed by law and are necessary in a democratic society for the protection of the rights". The Committee considers that the blanket prohibition to leave the country as stipulated in the law on the procedure for leaving and entering the Russian Federation is too restrictive and goes beyond what can be justified under Article G of the Charter. Therefore, the Committee holds that the situation is not in conformity with the Charter].

Slovak Republic

Art. 1§2: It has not been established that the restrictions on access of foreign nationals non EU/EEA nationals to posts in the public/state service, not linked to state sovereignty, are not excessive.

Art. 18§2: The rules governing the issuance of work and residence permits have not been simplified.

[In its previous conclusion (Conclusions 2008) the Committee held that the situation was not in conformity with the Charter as formalities for the granting of temporary residence permits had not been simplified and there were two distinct procedures for issuing work permits and residence permits. In this connection, it notes from the report of the Governmental Committee of the Social Charter to the Committee of Ministers that no simplification measures had been taken and therefore the system in which these permits had to be obtained through separate or distinct procedures remained the same. According to the same report (§ 174) draft legislation to transfer responsibility for immigration from the police to the civil authorities thus simplifying formalities had not yet been adopted. The Committee notes that the report does not contain any further information on this point. The Committee notes from the report that the competent authority for the granting of an employment permit is the Office of Labour, Social Affairs and Family to whom a foreigner should submit a written application for a job permit with supporting documents such as the type of work, and a promise of the employer to accept the foreigner in employment. On the basis of the work permit the worker concerned may apply for a temporary residence permit. Employment in the territory of the Slovak Republic is legal only if both permits are obtained. The Committee asks whether there are cases where a foreign worker having obtained a work permit has been refused a temporary residence permit, therefore obliging him/her to turn down the employment offer. The Committee notes that as regards the issue of work and residence permits, the situation has remained the same and no simplification of the dual procedure took place during the reference period. Therefore the Committee holds that the situation is not in conformity with the Charter as the rules governing the issuance of work and residence permits have not been simplified].

Art. 24: The maximum compensatory payment in case of unlawful termination of employment is inadequate.

[The Committee notes from the report that under Article 77 of the Labour Code an employee may challenge in court the validity of the termination of an employment relationship by notice up to two months from the claimed date of termination of the employment relationship. Under Article 79 of the Labour Code if an employer's termination of an employee's employment by notice or with immediate effect or during a probationary period is invalid and if the employee has notified the employer that he or she insists that the employer continue to employ him or her, the employment relationship shall not end unless the court finds that the employer cannot reasonably be required to continue to employ the employee. During the period of legal

proceedings the employer is obliged to pay the employee wage compensation. The employee is entitled to compensation equal to his/her average earnings from the date when he or she notified the employer that he or she insists on the continuation of employment to the time when the employer enables him or her to continue work or a court rules that the employment relationship is terminated. An employer shall be obliged to pay an employee wage compensation for 12 months in the event that a court decision on the invalid termination of an employment relationship is issued after more than 12 months. If the court's decision on the invalid termination of the employment relationship is issued earlier, only wage compensation for this shorter period shall be payable. An employer may pay an employee wage compensation for a period longer than 12 months but the provisions of Section 79(2) of the Labour Code also allow the employer to request that the court proportionately reduce or refuse to award this wage compensation. In this connection the Committee recalls that under Article 24 employees dismissed without valid reason must be granted adequate compensation or other appropriate relief. Compensation is appropriate if it includes reimbursement of financial losses incurred between the date of dismissal and the decision of the appeal body. Therefore, the Committee holds the maximum compensation of 12 months is inadequate and the situation is not in conformity with the Charter].

Sweden

Art. 10§5: Nationals of other States Parties to the Charter and the 1961 Charter not members of the EU must have a permanent residence permit in order to be entitled to study support for education and vocational training.

[The Committee acknowledges the Government's arguments, but refers to its constant case law according to which equal treatment must be guaranteed to lawfully resident nationals of other States Parties to the Charter and the 1961 Charter with the proviso that this does not apply to students who have entered the territory for the sole purpose of attending education and training. The Committee considers that the rules applicable in Sweden amount to a length of residence requirement affecting persons who reside lawfully for other purposes than education and training, but have not (yet) been granted a permanent residence permit. The situation is therefore in breach of the Charter].

Turkey

Art. 1§2: The protection against discrimination in employment, in particular on grounds of age and sexual orientation, is insufficient; the upper limits on the amount of compensation that may be awarded in discrimination cases may preclude damages from making good the loss suffered and from being sufficiently dissuasive; restrictions on access of nationals of other States Parties to several categories of employment are excessive; under Martial Law, it is possible to suspend or transfer civil servants and local government employees because their employment posed a threat to security in general, law and order or public safety; the Commercial Code authorised during the reference period the captain of a ship

to use force to bring sailors back on board, even in cases where there is no threat to the safety of the vessel.

[Discrimination on the grounds of age and sexual orientation did not figure in the list of grounds of prohibited discrimination].

[Previously the Committee considered that the situation was not in conformity with the Charter since, with the exception of cases where discrimination is connected with membership or non-membership of a trade union, there is an upper limit on the compensation awarded to employees who have suffered discrimination of up to 8 months wages. The Committee finds that the information provided does not indicate that there has been any change. The Committee considers that compensation for all acts of discrimination including discriminatory dismissal, must be both proportionate to the loss suffered by the victim and sufficiently dissuasive for employers. Any ceiling on compensation that may preclude damages from making good the loss suffered and from being sufficiently dissuasive is proscribed].

[Restrictions on access to occupations including that of doctor, dentist, pharmacist, ophthalmologist and veterinarian, newspapers editor still apply].

[The Committee found previously that the situation was not in conformity with Article 1§2 because, under certain provisions of Martial Law No. 1402/1971 as amended by Act No.4045/1994 (Section 2) and Act No. 23935/1983, it was possible to suspend or transfer civil servants or local government employees on the ground that their employment posed a threat to security in general, law and order or public safety. The Committee was of the view that, because of the imprecise manner in which it is described, this circumstance cannot be considered to fall within the scope of Article G of the Charter (Conclusions 2008). No further information was provided on this issue. Therefore the Committee concludes that the situation is still not in conformity with the Charter].

[According to the Commercial Code, captains may use force to ensure that their ship is properly run and discipline is maintained].

Art. 18§2: There is a dual procedure for obtaining work and residence permits.

Art. 18§3: It has not been established that a residence permit of a foreign work who loses his/her job is not automatically revoked.

[The Committee observes that both the granting and the cancellation of work and temporary residence permits may well be interlinked, in as much as they refer to the same case in question- whether or not to enable a foreigner to engage in a gainful occupation. However, in case a work permit is revoked before the date of expiry, either because the work contract is prematurely terminated, or because the worker no longer meets the conditions under which the work permit was granted, it would be contrary to the Charter to automatically deprive such worker of the possibility to continue to reside in the State concerned and to seek another job and a new work permit, unless there are exceptional circumstances which would authorise expulsion of the foreign worker concerned, in the meaning of Article 19§8].

Art. 20: The employment of all women in certain underground or underwater occupations is prohibited.

Art. 24: The amount of compensation in case of unlawful dismissal is inadequate.

[The Committee notes that according to Article 21, if the court or the arbitrator concludes that the termination is unjustified because no valid reason has been given or the alleged reason is invalid, the employer must re-engage the employee in work within one month. If, upon the application of the employee, the employer does not re-engage him in work, compensation should be paid in the amount not less than the employee's four months' wages and not more than his eight months' wages. The Committee considers that the situation is not in conformity with Article 24 of the Charter].

Art. 25: Employees having worked for less than one year for the same employer are excluded from protection against insolvency.

[The Committee holds that exclusion of employees having worked less than one year for the same employer from protection against insolvency of their employer is contrary to the Charter. Therefore, it holds that the situation is not in conformity with Article 25].

1961 Charter

Austria

Art. 10§1: Nationals of States Parties who are not nationals of the European Economic Area and are lawfully resident or regularly working in Austria are granted access to university education only subject to the availability of places.

Art. 10§4: Equal treatment of nationals of other States Parties not members of EU/EEA lawfully resident or regularly working in Austria is not guaranteed with regard to fees and to financial assistance for training.

[According to the Appendix to the Charter, equality of treatment shall be provided to nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned. This implies that no length of residence is required from students and trainees residing in any capacity, or having authority to reside in reason of their ties with persons lawfully residing, on the territory of the Party concerned before starting training. This does not apply to students and trainees who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training. To this purpose, length of residence requirements or employment requirements and/or the application of the reciprocity clause are contrary to the provisions of the Charter].

Croatia

Art. 1§2: The list of jobs which are barred to foreign nationals is too broad.

[The Committee recalls that under Article 1§2 of the Charter States Parties may make foreign nationals' access to employment subject to possession of a work permit, but they may not issue a general ban on nationals of states parties occupying posts for reasons other than those set out in Article 31. Restrictions on the rights embodied in the Charter are only acceptable if they are prescribed by law, serve a legitimate purpose and are necessary in a democratic society to safeguard the rights and freedoms of others or protect the public interest, national security, public health or morals. The only jobs from which foreigners may be banned are therefore those that are inherently connected with the protection of public interest or national security and involve the exercise of public authority. Foreigners including nationals of other States Parties are barred from certain jobs in Croatia. Among these are the occupations of lawyer (see Article 48 of the Legal Profession Act), of notary (see Article 13 of the Notaries Public Act) and legal expert (see Article 2 of the Permanent Court-Appointed Expert Witnesses Ordinance). The Committee notes that this restriction is laid down by the law within the meaning of Article G of the Charter but that, contrary to the requirements of Article G for restrictions on the rights embodied in the Charter, these occupations are not linked to the protection of law and order or national security and do not involve the exercise of public authority. The Committee considers this restriction to be excessive and to constitute discrimination on the ground of nationality].

Art. 9: It has not been established that the right to vocational guidance is guaranteed equally to nationals of other States Parties.

Czech Republic

Art.1 of the Additional Protocol: The legislation only permits equal pay comparisons between employees working for the same company or undertaking.

[The principle of equal pay for work of equal value cannot be invoked in respect of persons working for different enterprises even if covered by the same collective agreement and, therefore, the Committee finds that the situation is not in conformity with the Charter].

Denmark

Art. 10§4: Nationals of other States Parties to the Charter and the 1961 Charter not members of the EU do not enjoy equal treatment with regard to financial assistance for education and training.

[EU citizens are eligible for financial assistance on the basis of applicable European Union law. The Committee recalls its previous conclusion that the situation as regards foreigners' right to financial assistance is not in conformity with the Charter. In as much as the above information does not indicate any changes to the situation, the Committee can only reiterate that the rules in place amount to imposing a length of residence requirement (in combination with employment requirements as the case may be) on non-EU nationals of States Parties to the Charter or the 1961 Charter in violation of Article 10§4 of the 1961 Charter. The arguments advanced

by the Danish representative in the Governmental Committee, in particular as regards the generous nature of the financial assistance system and the resulting cost of making it available to all lawfully resident foreign students, do not lead the Committee to take any other view of the situation].

Art. 15§1: There is no legislation explicitly protecting people with disabilities from discrimination in education.

[Although Danish legislation on education provides all children with the right to free compulsory education, this does not amount to non-discrimination legislation].

Germany

Art. 1§2: Access for non-EU/EEA nationals to professions as doctors and pharmacists is restricted, which constitutes discrimination on grounds of nationality.

[The Committee notes that some professions are open only to Germans and specified groups of non-Germans, such as EU citizens and stateless people. By virtue of Section 3.1 No. 1 Federal Medical Regulation (Bundesärzteordnung): admission to medical practice is only for German citizens according to Article 116 Basic Law (Grundgesetz), citizens of EU Member States, parties to the Treaty on the European Economic Area, or stateless people; there are similar regulations in other areas, for example for pharmacists, see Section 2.1 No. 1 Law on Pharmacies (Apothekengesetz). The Committee finds such restrictions to go beyond those permitted by the Charter and therefore concludes that the situation is not in conformity with the Charter].

Greece

Art. 1§2: Restrictions on access of nationals of non-European Union States Parties to posts in the public service are excessive.

[Nationals of States Parties that are not members of the European Union are not entitled to work in some sectors of the Greek public service even where the posts do not involve the exercise of public authority].

Art. 10§1: Equal treatment of nationals of States Parties as to access to vocational training is not guaranteed because their access is subjected to the availability of places.

[The Committee recalls that equal treatment with respect to access to vocational training must be guaranteed to non-nationals. According to the Appendix to the Charter, equality of treatment shall be provided to nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned. This implies that no length of residence is required from students and trainees residing in any capacity, or having authority to reside in reason of their ties with persons lawfully residing, on the territory of the Party concerned before starting training. This does not apply to students and trainees who, without having the abovementioned ties, entered the territory with the sole purpose of attending training. To this purpose, length of residence requirements or employment requirements

and/or the application of the reciprocity clause are contrary to the provisions of the Charter. The Committee considers that equal treatment of nationals of States Parties as to access to vocational training is not guaranteed because their access is subjected to the availability of places and, therefore, finds the situation not to be in conformity with Article 10§1].

Art. 18§2: Fees charged for issuing long term residence permits are excessive.

[The report states that the amount of fees for the issuance and renewal of residence permits is stipulated in Article 92 of Law 3386/2005. As regards the long-term resident permit, its cost was reduced, per provisions of Article 30 of Law 3838/2010, from € 900 to € 600. According to the report, these fees are collected for the State and a significant percentage of the collected revenues is spent for the operating costs of the departments serving third-country nationals, as well as for the expenses of Ministries and Decentralised Administrations of the country administering migration policy issues. The report states that the part of the fee revenues will be spent towards materialisation of the gradual transformation of the competent Aliens and Immigration services to "one-stop-shop" services. According to Article 18§2 of the Charter, with a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, States Parties are under an obligation to reduce or abolish chancery dues and other charges paid either by foreign workers or by their employers. The Committee observes that 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 view of the above, the Committee holds that the level of fees for the issuance and renewal of residence permits, albeit having been reduced, is still excessive. Therefore, the situation is not in conformity with the Charter].

Latvia

Art. 1§2: The restrictions on access to employment for non EU citizens go beyond those permitted by the Charter.

[According to the report the status of civil servants is regulated by the State Civil Service Law – civil servants fulfil functions related to the execution of public authority. There are other functions in public administration which are fulfilled by employees who are employed under the Labour Law or special laws. Within the public sector (central administration, local governments, central and local government-owned companies) only 6% are civil servants' positions, 18% of employees in central government budget institutions are civil service positions. The changes made to legislation in 2006 do not affect the requirement that non-nationals may not be employed in the civil service. The Committee seeks further clarification that the posts reserved for nationals in the civil service are intrinsically linked to the exercise of public authority or security.

As regards lawyers/advocates it appears from the report and legislation that in order to become a sworn advocate in Latvia an individual must possess Latvian nationality. Citizens of other EU member states however may practice as advocates in Latvia under certain conditions. The Committee finds that the restrictions on non-EU citizens from becoming advocates not to be in conformity with the Charter].

The Committee further notes from a European Commission against Racism and Intolerance report on Latvia 2012 that there are a substantial number of occupations in the private sector which require a certain proficiency in the Latvian language, the number of occupations on this list is expanding. Persons not possessing the proficiency required may be fined. The Committee seeks confirmation this language requirement is only imposed in cases of genuine occupational requirements and is proportional to the objective, as otherwise this would amount to indirect discrimination against non- citizens. The Committee notes that these restrictions may pose problems for a large number of residents, since non-citizens constitute some 20% of the population, neither most of them pre-independence Soviet citizens who now have neither Latvian nor any other nationality].

Luxembourg

Art. 1§2: The restrictions on access to employment in the public service for non-nationals are excessive.

[The Committee recalls that under Article 1§2 of the Charter, States parties may make foreign nationals' access to employment on their territory subject to possession of a work permit but they cannot ban nationals of States Parties, in general, from occupying jobs for reasons other than those set out in Article 31 of the Charter. Restrictions on the rights embodied in the Charter are only acceptable if they are prescribed by law, serve a legitimate purpose and are necessary in a democratic society to safeguard the rights and freedoms of others or protect the public order, national security, public health or morals. The only jobs from which foreigners may be banned are therefore these that are inherently connected with the protection of the public interest or national security and involve the exercise of public authority. The report states that posts entailing direct or indirect involvement in the exercise of public authority, or in carrying out duties affecting the general interests of the state or other public entities, are reserved for nationals. A Grand Ducal regulation of 12 May 2010 lists the posts in this category. The Committee notes in particular that this concerns posts in the Secretariat of the State Council, in the departments of the Court of Auditors and of the Ombudsperson, in government services and their administrative departments, the administrative departments of the State Treasury and the Directorate of Financial Control, and in the tax administration and the Land and Map Registry. Although these posts are related to the exercise of public authority, the Committee considers that it would be excessive to reserve all these posts for nationals. The Committee recognizes that the employment of nationals of other contracting parties in a state party's civil service may affect major national interests. In the present situation, a large number of posts are

concerned. In each case, it is necessary to determine which duties truly entail direct or indirect involvement in the exercise of public authority and the protection of the country's general interests. If these duties are merely ancillary tasks then the post in question should be restructured so that these duties are separated from the post's other activities, thus opening up the access or promotion of nationals of other states parties to the restructured post. If these duties make up the bulk of the work in the post concerned, the state party is entitled to restrict access to it to its own nationals. The Committee therefore asks that the next report stipulate whether the situation evolved following the comments made above and whether all the posts in the aforementioned sectors are reserved for nationals and, if so, that it justify the situation. Meanwhile it concludes that the situation is not in conformity with the 1961 Charter].

Poland

Art. 1§4: Access to continuing training for nationals of other States Parties is subject to an excessive length of residence requirement.

[In previous conclusions, the Committee noted that a permanent residence permit was only granted to foreign nationals who have spent at least three years in Poland as temporary residents, can show that they have permanent family or economic ties with Poland and have secure accommodation and a secure income in the country. This length of residence requirement is extended to five years in respect of nationals of non-European Union member states party to the Charter. On the basis of such considerations, it found that the situation was not in conformity with the Charter on the ground that access to further training for nationals of other States Parties was subject to an excessive length-of-residence requirement. The Committee also stated that the procedure for obtaining a simplified residence permit did not affect its conclusion (Conclusions XVIII-2 and XIX-1). The information given by the current report concerning how a foreigner may be registered as unemployed is also not relevant regarding the ground of non-conformity. The Committee therefore repeats its conclusion of non-conformity].

Spain

Art. 1§2: The restrictions on access to employment in the public service for non-nationals are excessive.

[The Committee recalls that under Article 1§2 of the Charter, States parties may make foreign nationals' access to employment on their territory subject to possession of a work permit but they cannot ban nationals of States Parties, in general, from occupying jobs for reasons other than those set out in Article 31. Restrictions on the rights embodied in the Charter are only acceptable if they are prescribed by law, serve a legitimate purpose and are necessary in a democratic society to safeguard the rights and freedoms of others or protect the public order, national security, public health or morals. The only jobs from which foreigners may be

banned are therefore these that are inherently connected with the protection of the public interest or national security and involve the exercise of public authority.

Article 57 of Law No. 7/2007 of 12 April 2007 on the basic status of public employees governs access to public service jobs for nationals of other states. Nationals of member states of the European Union and of states with which the European Union has signed agreements on the free movement of workers may be civil servants, with the same conditions of access to public service jobs as Spanish nationals, except for jobs which directly or indirectly entail participation in the exercise of public authority or in functions whose aim is to safeguard the interests of the state. The right also extends to the spouse of Spanish nationals and nationals of other EU member states, irrespective of their nationality, and to their descendants and spouses' descendants of less than 21 years of age or over 21 and dependent, unless the spouses are legally separated.

Royal Decree No. 543/2001 of 18 May 2001, which remains in force despite the adoption of the Law of 2007, relates to access to public service posts in central government and its subordinate bodies for nationals of other states to whom the right to free movement of workers is applicable and lists the civil service corps and grades which are reserved for Spanish citizens. The Committee notes that this includes jobs in the corps of prison support staff, State lawyers, doctors, pharmacists and nurses working for the social security health inspectorate, junior employment and social security inspectors, senior labour and social security inspectors and senior lawyers working for the social security department.

Although these posts are related to the exercise of public authority, the Committee considers that it would be excessive to reserve all these posts for nationals. The Committee recognizes that the employment of nationals of other contracting parties in a state party's civil service may affect major national interests. In the present situation, a large number of posts are concerned. In each case, it is necessary to determine which duties truly entail direct or indirect involvement in the exercise of public authority and the protection of the country's general interests. If these duties are merely ancillary tasks then the post in question should be restructured so that these duties are separated from the post's other activities, thus opening up the access or promotion of nationals of other states parties to the restructured post. If these duties make up the bulk of the work in the post concerned, the state party is entitled to restrict access to it to its own nationals.

The Committee therefore asks that the next report stipulate whether the situation evolved following the comments made above and whether all the posts in the aforementioned sectors are reserved for nationals and, if so, that it justify the situation. Meanwhile it concludes that the situation is not in conformity with the 1961 Charter].

Art. 10§4: The right to equal treatment for nationals of other States Parties lawfully resident or regularly working in Spain is guaranteed with respect to financial assistance in relation to the right to vocational training.

"The Former Yugoslav Republic of Macedonia"

Art. 1§2: Nationals of other States Parties do not have access to civil service jobs.

[Even where they are not inherently connected with the protection of law and order or national security and do not involve the exercise of public authority. The Committee considers this restriction to be excessive and to constitute discrimination on the ground of nationality].

United Kingdom

Art. 10§4: Nationals of other States Parties not EU nationals, residing or working lawfully in the United Kingdom are not treated on an equal footing with the United Kingdom nationals with respect to fees and financial assistance for higher education.

[The Committee previously concluded that the situation in the United Kingdom was not in conformity with Article 10§4 of the 1961 Charter because nationals of other States Parties not EAA nationals, residing or working lawfully in the United Kingdom are not treated on an equal footing with the United Kingdom nationals with respect to fees and financial assistance for higher education. The Committee recalls that in order to be eligible for home rate of fees or to receive tuition fee loans non EAA nationals must have resided in the UK for three years prior to starting the course. The Committee notes that there has been no change to this situation. Therefore the Committee finds the situation still not to be in conformity with the 1961 Charter].

Art. 18§2: The fees charged for work permits are excessive.

[The Committee notes that the Social Charter nationals are a separate category when it comes to immigration fees. The fees for this category are slightly lower than for other applicants. The main applicant in Tier 1 should pay £ 734 (932€) if applying from outside the UK and £1,350 (1,714€) if applying in the UK. According to Article 18§2 of the Charter, with a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, States Parties are under an obligation to reduce or abolish chancery dues and other charges paid either by foreign workers or by their employers. The Committee observes that 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. The Committee notes that fees are high and therefore, it holds that the situation is not in conformity with the Charter].

Art. 18§3: The foreign worker's residence permit may be revoked if he loses his job and the foreign worker may be obliged to leave the country as soon as possible.

[The Committee observes that both the granting and the cancellation of work and temporary residence permits may well be interlinked, in as much as they refer to the

same case in question- whether or not to enable a foreigner to engage in a gainful occupation. However, in case a work permit is revoked before the date of expiry, either because the work contract is prematurely terminated, or because the worker no longer meets the conditions under which the work permit was granted, it would be contrary to the Charter to automatically deprive such worker of the possibility to continue to reside in the State concerned and to seek another job and a new work permit, unless there are exceptional circumstances which would authorise expulsion of the foreign worker concerned, in the meaning of Article 19§8. The Committee holds that the UK legislation does not comply with this approach. Therefore, it considers that the situation is not in conformity with the Charter.

Appendix 8

Observations by the Committee on texts submitted by the committee of Ministers

Comments on Parliamentary Assembly Recommendation 2000 (2012) on "Decent Pensions for All"

The European Committee of Social Rights has taken note with interest of Recommendation 2000 (2012) of the Parliamentary Assembly. It welcomes the call of the Assembly on the Committee of Ministers to urge those member States which have not yet done so to ratify the Revised European Social Charter which guarantees not only the rights of the elderly, including the right to adequate resources (Article 23), but also a more general right to social security, including the right to old-age pension (Article 12). It also subscribes to the view expressed by the Assembly that new intra- and intergenerational inequalities pose a threat to social cohesion.

Under Article 12 of the Charter, the Committee has consistently held that minimum pensions must not fall below a level corresponding to the poverty threshold, defined as 50% of median equivalized income in the country concerned (see e.g. Conclusions 2006, p. 118). Under Article 23, pensions must be sufficient in order to allow elderly persons to lead a decent life and play an active part in public, social and cultural life. In making its assessment in this respect the Committee also here verifies that pensions do not fall below the poverty threshold (see e.g. Conclusions 2009, p. 429).

The European Social Charter, being a living instrument, when States Parties implement its rights, they may reform social security or even take restrictive measures in order to consolidate public finances if such measures are justified by the need to ensure efficiency, maintenance and sustainability of the social security system. The Committee's assessment of the conformity with the Charter is based on a range of criteria such as the nature of the changes (field of application, conditions for granting allowances, amounts of allowance, etc.); the reasons for the changes and the framework of social and economic policy in which they arise; the extent of the changes introduced (categories and number of people concerned, levels of allowances before and after); the existence of measures of social assistance for those who find themselves in a situation of need as a result of the changes made and the results obtained by such changes (Conclusions XVI-1, p. 11).

In its General Introduction to Conclusions 2009 (pp. 12-13) commenting on the consequences of the economic crisis, the Committee recalled that under the Charter the States Parties have undertaken to pursue by all appropriate means the attainment of conditions in which the rights may be effectively realized, even in a situation where the number of beneficiaries increase while revenues from tax and social security contributions decline. The Committee emphasized that the economic crisis should not have as a consequence the reduction of the protection of the rights

recognized by the Charter. Hence, the governments are bound to take all necessary steps to ensure that the rights of the Charter remain effectively guaranteed at a period of time when beneficiaries need the protection most.

This evidently applies to the issue of pensions, that is, not only to minimum pensions, but to pensions in general which should be sufficient to ensure that pensioners can have a decent living standard after the end of their working life and are not systematically pushed towards the bottom. Being entitled to a minimum pension should not be regarded as an acceptable criterion for forcing people into retirement. The principle of non-discrimination in employment on grounds of age implies that an employment relationship can only be terminated if the worker concerned is entitled to an adequate pension.

The Committee will therefore continue to carefully examine the consequences of the pension reforms undertaken by the States Parties, including with respect to rules on mandatory or default retirement age. In this respect it also wishes to encourage States Parties to accept the collective complaints procedure, which can play an essential role in protecting the rights of the elderly, including in relation to pensions.

Comments on Parliamentary Assembly Recommendation 2002 (2012) on "The Young Generation Sacrificed: Social, Economic and Political Implications of the Financial Crisis"

The European Committee of Social Rights has taken note with interest of Recommendation 2002 (2012) of the Parliamentary Assembly on "The young generation sacrificed: social, economic and political implications of the financial crisis".

The Committee welcomes the Parliamentary Assembly's request to the Committee of Ministers to assist member States in fostering youth access to social rights, inter alia on the basis of the European Social Charter. It recalls in this respect that the Charter is unique in Europe not only in terms of the rights guaranteed, but also because of the double dimension of its supervisory mechanism: an annual procedure based on national reports on the one hand and a collective complaints procedure allowing civil society organizations to lodge complaints, on the other. It further recalls that the Committee, as the independent regulatory body of the Charter, rules on the conformity of national law and practice under both these procedures.

The Committee refers to its comments on Parliamentary Recommendation 1978 (2011) and reiterates that that several provisions of the European Social Charter have a direct and crucial bearing on the youth rights in this regard:

There are a number of specific rights relating exclusively to youth; Article 7 (right of children and young persons to protection) and Article 17 (right of children and young persons to social, legal and economic protection). Several of the rights guaranteed by the Charter have a specific relevance to youth; for example Article 16 (right

of the family to social, legal and economic protection) which protects the rights of young persons as family members and Article 11 (right to protection of health).

In addition, youth rights in fields such as education and training (Article 7, 9, 10, 17), employment (Article 1, 2, 3, 4, 7, etc.) and housing (Article 16 and 31) are also fully provided by the Charter.

The Committee stresses that States should be strongly encouraged to accept all of the aforementioned provisions, if they have not done so yet, and to fully implement them in order to achieve better implementation of youth rights. This is of particular importance in the current context of economic crisis and austerity policies. In this respect the Committee has recently pointed out that under the Charter States have undertaken to pursue by all appropriate means the attainment of conditions in which the rights may be effectively realized, even more so in a situation of serious economic crisis. The Committee emphasized that the economic crisis should not have as a consequence the reduction, but rather the confirmation of the protection of the rights recognized by the Charter. Hence, the governments are bound to take all necessary steps and positive measures to ensure that the rights of the Charter remain effectively guaranteed at a period of time when beneficiaries need the protection most[17].

Finally, the Committee wishes to emphasize the important role the collective complaints procedure can play in guaranteeing youth rights by allowing organizations working in this field to lodge complaints. It refers here to the recent declaration of the Committee of Ministers on the occasion of the 50th anniversary of the Charter[18] in which the contribution of the collective complaints mechanism in furthering the implementation of social rights is recognized, and a call is made on those members states that have not yet done so to consider accepting the system of collective complaints.

Comments on Parliamentary Assembly Recommendation 2003 (2012) on "Roma Migrants in Europe"

The European Committee of Social Rights has taken note with interest of Recommendation 2003 (2012) of the Parliamentary Assembly on "Roma migrants in Europe".

The Committee notes the Parliamentary Assembly's call on the Committee of Ministers to take measures to counteract the disadvantage, discrimination, persecution and victimization suffered by Roma in Europe and with such measures to be based inter alia on the European Social Charter. It recalls in this respect that the Charter is unique in Europe not only in terms of the rights guaranteed, but also because of the double dimension of its supervisory mechanism: an annual

17. Conclusions 2009, General Introduction (pp. 12-13).
18. Adopted by the Committee of Ministers on 12 October 2011 at the 1123rd meeting of the Ministers' Deputies.

procedure based on national reports on the one hand and a collective complaints procedure allowing civil society organizations to lodge complaints, on the other. It further recalls that the Committee, as the independent regulatory body of the Charter, rules on the conformity of national law and practice under both these procedures.

The Charter lays down fundamental rights related to housing, health, education, employment, social and legal protection and non-discrimination of which certain apply exclusively to persons who are in a regular situation, while others apply also to nationals of non-Council of Europe member states, persons in an irregular situation, undocumented persons and thus also Roma and Travellers falling within these categories, because no one may be deprived of rights which are linked to life and dignity (e.g. urgent medical assistance should be granted to everyone; no one may be evicted, not even from an illegally occupied site, without respecting the dignity of the persons concerned and without alternative accommodation being made available; everyone has a right to shelter; everyone has a right to procedural safeguards in the event of expulsion, etc.).

Within the context of its supervision of the application of the Charter by the States Parties, the Committee has, in recent years and notably under the collective complaints procedure, been called upon to assess the situation of Roma and Travellers. To date, it has examined 13 complaints on this issue (4 against France, 3 against Bulgaria, 2 against Greece, 2 against Italy, 1 against Belgium and 1 against Portugal) and has found many instances of violations of the rights of Roma and Travellers under Articles 11, 13, 16, 19, 30 and 31, as well as Article E taken in conjunction with these Articles of the Charter. The Committee refers in particular to its decisions in Centre on Housing Rights and Evictions (COHRE) v. Italy,[19] COHRE v. France[20] and European Roma and Travellers Forum v. France[21] which address several issues of direct relevance to the problems identified by the Parliamentary Assembly Recommendation.

In this respect, the Committee also refers to the "Strasbourg Declaration"[22] which recommends that States Parties take full account of the relevant decisions of the European Committee of Social Rights, in developing their policies on Roma

The collective complaints procedure in particular has proven its worth in taking forward Roma rights issues. Out of the some 85 complaints registered to date under this procedure, 13 concern the situation of Roma and Travellers directly and as noted above many violations have been identified.

19. Complaint No. 58/2009. Decision on the merits of 25 June 2009. See also Committee of Ministers Resolution CM/ResChS(2010)8.
20. Complaint No. 63/2010. Decision on the merits of 28 June 2011. See also Committee of Ministers Resolution CM/ResChS(2011)9.
21. Complaint No. 64/2011. Decision on the merits of 24 January 2012.
22. Adopted by the Council of Europe member States in the context of the High Level Meeting on Roma, Strasbourg, 20 October 2010.

Hitherto, however, the collective complaints procedure has only been accepted by 15 out of the 43 States Parties to the Charter and the Committee is of the view that acceptance of the procedure by more States would be a key element in responding to the concerns raised by the Parliamentary Assembly as regards Roma rights. It refers here to the recent declaration of the Committee of Ministers on the occasion of the 50th anniversary of the Charter[23] in which the contribution of the collective complaints mechanism in furthering the implementation of social rights is recognized, and a call is made on those members states that have not yet done so to consider accepting the system of collective complaints.

23. Adopted by the Committee of Ministers on 12 October 2011 at the 1123rd meeting of the Ministers' Deputies.

Appendix 9

Selection of judicial decisions referring to the European Social Charter

National Courts

Spain

- High Court of Justice of Castilla-La Mancha Region (Social Chamber, 1st Section), Judgment No. 1220 of 20 June 2012, quotation of the European Social Charter (revised) on harassment in the workplace);
- High Court of Justice of Valencia Region (Administrative Chamber, 2nd Section), Judgment No. 994 of 12 November 2012 (quotation of the decision on the merits of 12 September 2012, *Syndicat de Défense des Fonctionnaires* v. France on collective bargaining, Complaint No. 73/2011).

France

- Judgment of Administrative Court of Marseille No. 1206176 of 21 September 2012 (quotation of Article 31 of the Charter), application by Ms Gerebenes and al.;
- Decision of Conseil d'Etat 2nd and 7th joint sub-sections) No. 340122 of 24 February 2011 (mention of Articles 3 and 11 of the Charter), application by the *Union nationale des Footballeurs professionnels.*

Greece

- Conseil d'Etat, judgment of No. 1571/2012 (520022 of 6 May 2012 (reference to Article 1§2 of the Charter – occupation freely entered upon).

The Netherlands

- Supreme Court, judgement LJN : BW328, Hoge Raad, 11/01153, 21 September 2112 (reference to Articles 17 and 31§2, decision on the merits of 20 October 2009, Defence for Children International v. the Netherlands, No. 47/2008, right to housing of children residing illegaly).

European Court of Human Rights

- Case *Constantin Markin* v. Russia, application No. 30078/06, judgment of 22 March 2012 quotation of Article 27 of the Charter – equal opportunities and equal treatment for men and women workers with family responsibilities);
- Case *Vejdeland and al*. v. Sweden, application No. 1813/07, judgment of 9 February 2012 (final 9 May 2012) (reference to the decision on the merits of 30 March 2009, INTERIGHTS v. Croatia, No. 45/2007 – discrimination on the ground of sexual orientation and gender identity);

- Case *Sindicatul "Păstorul cel bun"* v. Romania, application No. 2330/09, judgment of 31 January 2012 (referred to the Grand Chamber 9 July 2012) (quotation of Article 5 of the Charter – right to organize);
- Case *Yordanova and al*. v. Bulgaria, application No. 25446/06, judgment of 24 April 2012 (final 24 September 2012) (reference to the decision on the merits of 18 October 2006, European Roma Rights Center v. Bulgaria, No. 31/2005 – violation of Article 16 of the Charter, right of the family to social, legal and economic protection, in combination with Article E, non-discrimination);
- Case Đordević v. Croatia, application No. 41526/10, judgment of 24 July 2012 (final 24 October 2012) (reference to Article 15 of the Charter – right of persons with disabilities to independence, social integration and participation in the life of the community);
- Case K.M.C. v. Hungary, application No. 19554/11, judgment of 10 July 2012 (final 19 November 2012) (reference to Article 24 of the Charter – right to protection in cases of termination of employment);
- Case *Efe* v. Austria, application No. 9134/06, judgment of 8 January 2013 (quotation of Article 12§4a of the Charter – equal treatment with their own nationals of the national of other Parties in respect of social security rights.

Appendix 10

Main meetings on the Charter

Exchange of views

Strasbourg, 1 February
Exchange of views between the Committee of Ministers and the President of the Committee;

Strasbourg, 22 March
Exchange of views between the Secretary General of the Council of Europe and the President of the Committee.

Non-accepted provisions of the Charter

Tirana (Albania), 5 June.

Third Summit Action Plan

Astrakhan (Russian Federation), 24-25 April)
Seminar on the European Social Charter and the European Code of Social Security.

Meetings organized by or with governmental authorities

Paris, 16 February
Conference "The implementation of social rights laid down in the European Social Charter by France: what are the rules of the game?" organized by the French Ministry of Health and Solidarity;

Strasbourg, 22 May
Meeting between a delegation from Switzerland and the Committee;

Andorra-La-Vella (Andorra), 27-31 August
Université d'été: "Empreintes de l'Europe dans le monde";

Strasbourg, 11 septembre
Meeting between a delegation from Monaco and the Committee ;

Belgrade (Serbia), 6 November
Meeting on the collective complaints procedure organized by the Ministry of Labour, Employment and Social Affairs;

Yerevan (Armenia), 15 November
Meeting on the collective complaints procedure and the Conclusions of the Committee organized by the Ministry of Labour and Social Policy;

Moscow (Russian Federation), 11-12 December
International High-level Conference on Decent Work.

Joint meetings of the Bureau of the Committee and the Bureau of the Governmental Committee

Strasbourg, 24 October;

Strasbourg, 6 December.

Co-operation with the European Union

Strasbourg, 27 February
Meeting with Mr S. NILSSON, President of the European Economic and Social Committee, and a delegation.

Various

Strasbourg, 6 December
Seminar organized in honour of three members of the Committee whose term ended at the end of the year: Mr J.M. Belorgey, Ms C. Kollonay-Lehoczky and Mr A. Swiatkowski: "European Social Charter: discretion of the States Parties".

Appendix 11

Selection of meetings and training sessions, seminars, conferences and colloquies

1. Main events organized by the Council of Europe

a. Ministerial conferences

Vienna (Austria), 20-21 September
Conference of Ministers of Justice;

Istanbul (Turkey), 11-12 October
Conference of Ministers responsible for social cohesion.

b. Meeting of Presidents of monitoring systems

Strasbourg, 3 December
Meeting of Presidents of human rights monitoring systems of the Council of Europe.

c. Meeting organized jointly with another governmental organization

Strasbourg, 27 September
Colloquy "The right to work for refugees and asylum seekers", organized by the UNHCR and the Council of Europe.

d. Various

Sofia (Bulgaria), 18-19 June
Training session for lawyers on Roma rights organized by the the Roma Division.

Warsaw (Poland), 29-30 November
Conference on the participation of children in the monitoring mechanism of the European Social Charter, organized in the framework of the pilot project "our rights – our responsibilities", of the Council of Europe's strategy for children's rights.

2. Conferences organized by the European Union

Vienna (Austria), 29 February
Seminar on inequalities and multiple discrimination in access to healthcare, organized by the European Union Agency for Fundamental Rights (FRA);

Vienna (Austria), 1 March
Seminar on access to healthcare for irregular migrants, organized by the European Union Agency for Fundamental Rights (FRA).

3. Seminars organized by or with social partners

Strasbourg, 27 March
Meeting with Ms B. SEGOL, Secretary General of the European Trade Union Confederation (ETUC);

Brussels (Belgium), 17 April
Seminar on the impact of the economic crisis on the labour law in Europe, organized by the Transnational Trade Union rights research network (TTUR);

Roma (Italy), 17 May
Seminar on the system of collective complaints in the framework of the European Social Charter, organized by Italian trade unions DGIL, CISL and UIL;

Bucharest (Romania), 23 August
Seminar on the collective complaints procedure, organized by the trade union *Blocul National Syndical*.

4. Colloquies organized by Universities

Toulouse (France), 9 February
European Day on social law: "*Pluralisme des sources, dialogue des juges en droit social*", organized by the *Institut de Recherche en droit européen, international et comparé (IRDEIC),* University Toulouse 1 Capitole;

Paris 10 February
Journées d'Etudes : "La justice sociale saisie par les juges en Europe", organized by the *Institut de Recherche en droit international et européen de la Sorbonne* (IREDIES), University La Sorbonne Paris;

Zagreb (Croatia), 27 February – 2 March
Mini-school of human rights entitled "The 50th Anniversary of the European Social Charter, Social and economic human rights", organized by the European Law Students' Association (ELSA);

Amsterdam (the Netherlands), 13-14 March
International Conference "Access denied – working on a new paradigm: international conference on social protection and migration", organized by the VU University Amsterdam, the University of Leuven and Regioplan Amsterdam in the framework of the research project "Cross Border Welfare State";

Galway (Ireland), 201-21 April
International Conference "Contemporary housing issues in a changing Europe", organized by the National University of Ireland, Galway, in association with national and international non-governmental organizations;

Moscow (Russian Federation), 26 April
Training on the Social Charter organized by the MGIMO (State Institute (University) of International Relations in Moscow);

26 April
Webinar (online Seminar) on "the international initiative to promote women's right to social security and protection" organized by the University of New South Wales (Australia) and the University of Ottawa (Canada);

London (United Kingdom), 10 May
Seminar on "The European Social Charter Fifty Years On: Commitment, Interpretation and Compliance", organized by the European Institute of the University College London (UCL);

London (United Kingdom), 19-20 May
Conference "Resocialising Europe and the mutualisation of risks to workers", organized by the European Institute of the University College London (UCL);

London (United Kingdom), 25 May
Conference on "The right to work - legal and philosophical perspectives" was held organized by the European Institute of the University College London (UCL);

Venice (Italy), 14 July
Conference on "the European Union and the economic, social and cultural rights", organized by the European Inter-University Centre for Human Rights and Democratisation (EIUC);

Torino (Italy), 21 September
International colloquy on "Access to healthcare by the migrant population in the city of Torino: a right to health perspective", organized by the fundamental Rights Laboratory;

Ohrid ("The former Yugoslav Republic of Macedonia"), 6-7 November
Training for judges on the Social Charter, organized by the Academy for training of Judges and Prosecutors;

Roma (Italy), 16 November
Meeting of the Academic Network on the European Social Charter : "*Riflessioni giuridiche sulla Carta sociale europea*", organized in co-operation with the "*Istituto di Studi Giuridici Internationali del Consiglio Nazionale delle Ricerche*";

Valencia (Spain), 28 November
Seminar on "Harassment in the workplace", organized by the University of Valencia.

5. Events organized by non-governmental organizations

Paris, 26 January
Colloquy "Extreme poverty is violence", organized by ATD Fourth World;

Milan (Italy), 1 March
Information session on the European Social Charter and the collective

complaints procedure, organized by International Planned Parenthood Federation European Network (IPPF EN);

Ulyanovsk (Russian Federation), 23-24 August
First Forum of social workers of the Volga region: "Social Cohesion. Open Society. Equal Opportunities", organized by the Union of Social Workers and Social Pedagogues of Russia and the Government of the Ulyanovsk region;

Paris, 5 September
Training course "Acting together to overcome poverty", organized by the Ecumenical Youth Council in Europe;

Berlin (Germany), 5-7 September
European Network of National Human Rights Institutions Regional Workshop on Business and Human Rights, organized by the Danish Institute for Human Rights;

Split (Croatia), 6-8 September
Seminar "What progress has social dialogue made in countries of the Western Balkans?", organized by EUROFEDOP;

Strasbourg, 16 October
ERTF (European Roma and Travellers Forum) Coordination meeting;

Strasbourg, 17 October
Conference "Building Europe through human rights: acting together against extreme poverty", organized by the Conference of INGOs of the Council of Europe in co-operation with the Department of the Social Charter;

Brussels (Belgium), 5-6 November
Regional meeting of Child and Youth Finance International;

Brussels (Belgium), 8 November
Training on the European Social Charter for IPPF EN members, organized by IPPF EN (International Planned Parenthood Federation European Network);

Strasbourg, 29 November
Round Table "*Le droit au logement: principes europpéens et réalités sur le terrain", organized by la Maison de l'Europe Strasbour Alsace";*

Madrid (Spain), 2 December
ELENA (European Legal Network on Asylum) course for legal practitioners on refugees rights, organized by ECRE (European Council on Refugees and Exiles).

6. Various

Bilbao (Spain), 14-15 May
Conference on the social rights in time of crisis, organized by Ararteko (Mediator);

The Hague (the Netherlands), 4 June
Training Workshop on European and international complaints mechanisms, organized by the European Network of Ombudspersons for Children (ENOC);

Strasbourg, 18-19 September
Meeting "ENTER", organized by the European Youth Centre;

Barcelone (Spain), 29 October
Conference on "*Litige stratégique en Europe: le rôle du Comité européen des Droits sociaux*" in the framework of the 7th edition of the lecture on social rights organized by the *Barreau de Barcelone* and the *Observatoire DESC* (economic, social and cultural rights).

Appendix 12

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PREMS56313.GBR

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