



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

May 2015

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

SLOVAK REPUBLIC

**on the basis of the written report submitted by the Slovak Government
on 30 September 2014**

TABLE OF CONTENTS

I.	SUMMARY	3
II.	EXAMINATION OF THE NON-ACCEPTED PROVISIONS	5
	Appendix 1: The Slovak Republic and the European Social Charter.....	27
	Appendix 2: Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter	34

I. SUMMARY

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

Following this decision, the European Committee of Social Rights examines - in a meeting or by written procedure - the actual legal situation and the situation in practice in the countries concerned from the point of view of the degree of conformity of the situation with non-accepted provisions. This review is done for the first time five years after the ratification of the revised European Social Charter, and every five years thereafter, to assess the situation on an ongoing basis and to encourage States to accept new provisions. Indeed, experience has shown that States tend to forget that the selective acceptance of the provisions of the Charter should be only a temporary phenomenon.

As the Slovak Republic ratified the Charter on 23 April 2009, the European Committee of Social Rights in March 2013 invited the Slovak authorities to organise a meeting with a view to applying, for the first time, the procedure provided by Article 22 of the 1961 Charter. Following the request of the Slovak authorities, the Committee decided to apply the written procedure and it invited the Slovak Republic to provide written information on any progress achieved towards accepting new provisions and, if appropriate, the reason for the delay in accepting these provisions. As the Slovak Republic has accepted 87 of the 98 paragraphs of the Charter, the report, submitted on 30 September 2014, covered the remaining 11 paragraphs.

Having examined the written information, the Committee was of the view that the Slovak Republic could consider acceptance of Article 18§3 - Liberalising regulations and Article 19§4 (c) - Equality regarding accommodation.

Furthermore, as regards Article 19§3 of the Charter - Co-operation between social services of emigration and immigration States - the Committee encouraged the authorities to develop practical co-operation on a needs basis that could be sufficient to ensure conformity with this provision and thus allow its acceptance. Moreover, in view of the measures taken to combat homelessness, the Committee is of the view that consideration could be given to acceptance of Article 31§2 - Reduction of homelessness.

In addition, the Committee considered that Article 19§12 – Teaching mother tongue of migrant - could possibly be accepted by the Slovak Republic subject to further analysis, in particular as regards the situation of adults in this respect. As regards Article 13§4 - Specific emergency assistance for non-residents and Article 19§2 - Departure, journey and reception, further information on the current legal situation and practice is needed to allow the Committee to take the view on the possibility of accepting these provisions of the Charter by the Slovak Republic.

As regards the remaining non-accepted provisions:

Article 19§8 - Guarantees concerning deportation

Article 19§10 - Equal treatment for the self-employed

Article 31§1 - Adequate housing

Article 31§2 - Reduction of homelessness

Article 31§3 - Affordable housing

The Committee was of the view that the situation did not appear to be fully in conformity with these provisions of the Charter. However, it considers that for several of these provisions only minor adjustments to the law or practice would be sufficient to remove obstacles to acceptance.

In view of the conclusions of this report, the Committee wishes to encourage the Slovak Republic to consider accepting additional provisions of the Charter as soon as possible so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

The Committee would also like to encourage the Slovak Republic to consider ratifying the Additional Protocol providing for a system of collective complaints. In this respect, the Committee refers to the Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter (Appendix 2).

The next examination of the provisions not accepted by the Slovak Republic will take place in 2019.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

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

Article 13§4 Specific emergency assistance for non-residents

Situation in the Slovak Republic:

According to the report of the Government, the Slovak Republic is not able to accept Article 13§4 of the Charter since - in accordance with Section 3 paragraph 2 of Act No. 448/2008 Coll. on Social Services and on amendment of Act No. 455/1991 Coll. (Trade-licensing Act) which entered into force on 1 January 2009 - social assistance is provided only to a selected group of foreigners and also because the Slovak Republic is not bound by the European Convention on Social and Medical Assistance.

In fact, the Act provides social assistance to two groups of foreigners:

- 1) foreigners who are EEA citizens and, under certain conditions, their family members; foreigners who are not EEA citizens but whose rights are derived from an international agreement; foreigners who are family members of citizens of the Slovak Republic; foreigners who have been granted asylum. These foreigners are eligible for financial support and social services; they can apply for the Disability ID card in the same way as the citizens of the Slovak Republic.
- 2) foreigners who are not EEA citizens and who have been granted temporary residence permit or permanent residence permit and whose rights are not derived from an international agreement; foreigners granted a supplementary protection; foreigners who have obtained a temporary shelter; citizens of the Slovak Republic living abroad. These foreigners can only benefit from social services.

Opinion of the Committee:

Article 13§4 guarantees the right to emergency social and medical assistance to foreign nationals who are lawfully present in a particular country but do not have resident status.

The personal scope of Article 13§4 differs from that of other Charter provisions. In fact, Article 13§4 refers to “nationals of other Contracting Parties lawfully within their territories”. Accordingly, the beneficiaries of this right to emergency social and medical assistance are foreign nationals who are lawfully present in a particular country but do not have resident status. The Committee has extended the scope of the right to emergency social and medical assistance to foreigners in an irregular situation.

The personal and material scope of Article 13§4 is not affected by the reference to the 1953 Convention. The only link between Article 13§4 and the 1953 Convention concerns the conditions under which states can repatriate non-resident foreigners without resources on the ground that they are in need of assistance, namely that the persons are in a fit state of health to be transported (Article 7.a.ii of the 1953 Convention). This option may only be applied in the greatest moderation and then only where there is no objection on humanitarian grounds (Article 7.b of the 1953 Convention, see also Articles 8 to 10). The abovementioned conditions for repatriation of non-resident nationals of other contracting parties in state of need apply also in respect of states that have not ratified the 1953 Convention. The other conditions set in Article 7 of the 1953 Convention do not apply, insofar as nationals of other Contracting Parties who work regularly or reside legally within the territory of another Contracting Party cannot be repatriated on the sole ground that they are in need of assistance.

The Committee recalls that under Article 13§4 States Parties have an obligation to provide only emergency assistance (food, clothing, shelter and emergency care) to persons in need. Moreover, in 2013 it adopted a statement of interpretation in which it held that the scope of Article 13§4 in terms of persons protected includes only nationals of other Parties who are lawfully within the territory of the Party concerned. The Committee therefore considered that by virtue of the provisions of Article 13§1 of the Charter, which state that any person who is without adequate resources be granted adequate assistance and, in case of sickness, the care necessitated by his condition, States Parties are under an obligation to provide foreign migrants who are in an irregular situation of stay in the territory of the State with urgent medical assistance and such basic social assistance as is necessary to cope with an immediate state of need. Consequently, as from 2017 it will consider issues in respect of this obligation within the framework of Article 13§1 of the Charter, already accepted by the Slovak Republic, rather than under Article 13§4 as was previously its practice.

Given the above, further information on the current legal situation and practice is needed to allow the Committee to take the view on the possibility of accepting Article 13§4 of the Charter by the Slovak Republic.

Article 18§3 Liberalising regulations

Situation in the Slovak Republic:

According to the report of the Slovak Government, the Slovak Republic is not able to accept Article 18§3 of the Charter since – due to the fact that the State is a member of the EU - its legal regulations on the employment of foreigners comply with the legal provisions of the EU. The Slovak legal basis must be in accordance with the legal basis of the EU and therefore cannot be simplified sufficiently for third-country nationals.

Opinion of the Committee:

Article 18 applies to employees and the self-employed who are nationals of States Parties to the Charter. It also covers members of their family allowed into the country

for the purposes of family reunion. Article 18 relates not only to workers already on the territory of the State concerned, but also to workers outside the country applying for a permit to work on the territory. This article also covers foreign workers who have obtained employment in a foreign country but subsequently lose it.

Under Article 18§3, States are required to liberalise periodically the regulations governing the employment of foreign workers in the following areas:

- Access to the national labour market

The conditions laid down for access by foreign workers to the national labour market must not be excessively restrictive, in particular with regard to the geographical area in which the occupation can be carried out and the requirements to be met.

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 G of the Charter. The only jobs from which foreigners may be banned therefore are those that are inherently connected with the protection of the public interest or national security and involve the exercise of public authority.

- Right to engage in an occupation

A person who has been legally resident for a given length of time on the territory of another Party should be able to enjoy the same rights as nationals of that country. The restrictions initially imposed with regard to access to employment (which can be accepted only if they are not excessive) must therefore be gradually lifted.

- Rights in the event of loss of employment

Loss of employment must not lead to the cancellation of the residence permit, thereby obliging the worker to leave the country as soon as possible. In such cases, Article 18 requires extension of the validity of the residence permit to provide sufficient time for a new job to be found.

The Committee takes the view that the risk of conflicts between the duties that are imposed under Article 18§3 of the Charter and EU law are limited, the latter establishing minimum standards on the matter. Measures adopted to liberalise regulations governing the employment of foreign workers with a view to facilitating the access to national labour market will therefore not necessarily be incompatible with EU law.

On this basis, the Committee invites the Slovak Republic to consider acceptance of Article 18§3.

Article 19§2 Departure, journey and reception

Situation in the Slovak Republic

The report states that the Slovak Republic is not able to accept Article 19§2 of the Charter because presumptions and requirements prescribed by this provision are at present not guaranteed by the legislation of the Slovak Republic.

Conditions of departure, travelling and reception of EU citizens and third country nationals are governed by EU legislation. In facilitating the departure from the Slovak Republic of a migrant worker whose work permit expired, the Slovak Republic cooperates with the International Organisation for Migration in securing voluntary returns (Section 2 par. 1 letter (a) of Act No. 404/2011 Coll. on Residence of Aliens and Amendment and Supplementation of Certain Acts).

As regards administrative expulsion, Section 77 of this Act states the following:

(1) Administrative expulsion is the decision of a police department when an alien does not have or has lost the entitlement to stay in the Slovak Republic and should be required to leave the territory of the Slovak Republic, with the possibility of setting a deadline for the departure to return to the country of origin, transit countries, any third country that would accept the alien or the Member State's territory in which the alien has obtained the right of residence or been provided with international protection. The decision on administrative expulsion shall also indicate the country to which the alien is expelled if it is possible to determine that country. In the decision on administrative expulsion, the police department may impose a ban from entering the Slovak Republic or in the territory of all the Member States, if the decision on administrative expulsion specifies no deadline for departure.

(2) Collective expulsion of aliens based on a single decision shall not be permitted.

(3) The police department, at the request of the foreigner, shall provide a written translation of the decision on expulsion, reasons for a ban on entry, duty to leave the country, period of forbidden entry and instructions on the possibility of an appeal in a language the foreigner understands, or in a language with which the foreigner is reasonably assumed to be familiar.

(4) If an alien against whom an administrative procedure for expulsion or prohibition of entry in accordance with the Act are underway has made an application for asylum, the police department shall make a decision on the suspension of the procedure of expulsion pending a decision on the asylum application and it shall further proceed under a separate regulation; procedure on the prohibition of the entry should be suspended by the decision of the police department. If the alien has not been granted asylum or subsidiary protection, the police department that suspended the expulsion procedure should continue it.

(5) The police department shall issue a decision on the suspension of the expulsion if the alien has been granted asylum or subsidiary protection. If the suspension of proceedings pursuant to paragraph 4 lasts longer than two years, the police department will suspend the proceedings.

(6) If an alien makes an application for asylum after enforceability of the decision on administrative expulsion or prohibition of entry, the police department shall not execute the decision until a decision on their application for asylum has been reached. If the decision on administrative expulsion contained a deadline for departure, the deadline shall commence again after the enforcement of the decision on the application for asylum.

(7) The alien against whom proceedings on administrative expulsion or prohibition of entry in accordance with this Act are underway may be represented by an attorney or other representative of his/her choice; only a natural person with full legal capacity may be a representative, unless specified otherwise in paragraph 8. The person listed in the first sentence may have only one representative in the same case.

(8) The third country national has the right to legal representation within the scope and conditions specified by a separate legislation.

(9) The police department shall inform the foreigner against whom proceedings on administrative expulsion are underway about their rights and obligations, especially on rights specified in paragraphs 7 and 8.

As regards health and medical care, Section 3 paragraph 3. a) of Act No. 580/2004 Coll. on health insurance and on amendment of the Act No. 95/2002 Coll. on insurance and on amendments to certain laws, as amended, provides (personal scope of public health insurance) that a person who does not have a permanent residence within the territory of the Slovak Republic shall have compulsory health insurance, provided he/she do not have health insurance in other member state of the EU or EEA or Swiss confederation and is employed by an employer who has the seat within the territory of the Slovak Republic or is a branch of a foreign employer within the territory of the Slovak Republic; this does not apply if the person is employed in the Slovak Republic by an employer that enjoys diplomatic privileges and immunities under international law, or if the person is employed by an employer on the basis of agreements on work carried outside employment, except where such a person is subject to separate regulations or international treaty.

Opinion of the Committee:

Article 19§2 obliges States to adopt special measures for the benefit of migrant workers, beyond those which are provided for nationals, to facilitate their departure, journey and reception.

Reception must include not only assistance with regard to placement and integration in the workplace, but also assistance in overcoming problems, such as short-term accommodation, illness, shortage of money and adequate health measures.

The Committee considers that the information provided by the Slovak Government does not directly address the measures foreseen by Article 19§2 and therefore it would need additional information to reach its opinion.

Article 19§3 Co-operation between social services of emigration and immigration States

Situation in the Slovak Republic

The report states that the Slovak Republic is not able to accept Article 19§3 of the Charter because the legal situation is not in conformity with the requirements of this provision.

The report mentions that the provision does not specify whether it deals with social services in a more narrow sense (e.g. specifically for the elderly, disabled or homeless people) or in a broader sense, meaning that it also relates to employment services, services provided by health institutions and educational institutions.

The report further indicates that the Slovak Republic has no coordination mechanism of cooperation between public and private social services of the countries from which and to which the persons concerned have moved. According to the current legislation, the provision of social services has been decentralised to the self-governing regions and municipalities, and that is why it is not possible to ensure coordination of cooperation between municipalities, self-governing regions or a private supplier of social services and providers of social services abroad.

In accordance with Section 5 of Act No. 448/2008 Coll. on Social Services and the amendment of Act No. 455/1991 Coll. (Trade-licensing Act), social services and financial support for the compensation of health disabilities are provided to foreigners, provided they meet the requirements.

Opinion of the Committee:

The scope of this provision extends to migrant workers immigrating as well as migrant workers emigrating to the territory of any other State. Contacts and information exchanges should be established between public and/or private social services in emigration and immigration countries, with a view to facilitating the life of emigrants and their families, their adjustment to the new environment and their relations with members of their families who remain in their country of origin. Formal arrangements are not necessary, especially if there is little migratory movement in a given country. In such cases, the provision of practical co-operation on a needs basis may be sufficient.

Common situations in which such co-operation would be useful would be for example where the migrant worker, who has left his or her family in the home country, fails to send money back or needs to be contacted for family reasons, or where the worker has returned to his or her country but needs to claim unpaid wages or benefits or must deal with various issues in the country in which he was employed.

Taking into account the information provided by the Slovak Government, the Committee wishes to encourage the authorities to develop practical co-operation on a needs basis that could be sufficient to ensure conformity with Article 19§3 of the Charter, and thus allow the acceptance of this provision.

Article 19§4 (c) Equality regarding accommodation

Situation in the Slovak Republic

The report states that the Slovak Republic is not able to accept Article 19§4 (c) of the Charter because the requirement of housing cannot be guaranteed to migrant workers (employees) or foreigners in the Slovak Republic, as the State does not even guarantee housing for its citizens.

The report presents the current legislation on employment of foreigners and, in particular, guarantees of non-discrimination.

Article 6 of the Labour Code (Act No. 311/2001 Coll.) states that conditions under which an alien or a stateless person may be admitted into a labour-law relation shall be stipulated by a special regulation (Act No. 5/2004 Coll. on employment services, section 21 – 24 – employment of foreigners, Act No. 404/2011 Coll. on aliens, Act No. 480/2002 Coll. on asylum).

Article 6 paragraph 1 of the Labour Code states that labour-law relations between employees performing work on the territory of the Slovak Republic and foreign employer, as well as between aliens and stateless persons working on the territory of the Slovak Republic and employers registered in the territory of the Slovak Republic shall be governed by this Act, unless stipulated otherwise by legal regulations on international private law.

Article 13 of the Labour Code states that:

(1) Employer shall be obliged to treat with employees in labour-law relations in accordance with principle of equal treatment stipulated for the area of labour-law relations by separate Act on Equal Treatment in Certain Areas and on the Protection against Discrimination and on Amending and Supplementing Certain Acts (Antidiscrimination Act).

(2) In labour-law relations discrimination shall be prohibited on the grounds of sex, marital and family status, sexual orientation, race, colour of skin, language, age, unfavourable health state or health disability, genetic traits, belief or religion, political or other conviction, trade union activity, national or social origin, national or ethnic group affiliation, property, lineage or other status.

(3) The enforcement of rights and obligations arising from labour-law relations must be in compliance with good morals. Nobody may abuse such rights and obligations to the damage of another participant to a labour-law relation, or of co-employees. In the workplace, nobody may be persecuted or otherwise sanctioned in the performance of labour-law relations for submitting a complaint, charge or proposal for the beginning of criminal prosecution against another employee or the employer.

(4) An employer shall not, except for grave reasons relating to the specific nature of the employer's activities, to intrude on the privacy of an employee in the workplace and common areas of the employer by monitoring him/her, keeping records of telephone calls made using the employers' equipment and checking e-mail sent from

a work e-mail address and delivered to such an address without giving notice in advance. If an employer implements a control mechanism, the employer shall consult with employees' representatives on the extent of control, its method of implementation and its duration and shall inform employees of the extent of control, its method of implementation and its duration.

(5) An employee shall have the right to submit a complaint to the employer in connection with the infringement of rights and obligations stated in paragraphs (1) and (2) and failure to comply with the conditions according to paragraphs (3) and (4); the employer shall be obliged to respond to such a complaint without undue delay, perform retrieval, abstain from such conduct and eliminate the consequences thereof.

(6) An employee, who assumes that his/her rights or interests protected by law were aggrieved by failure to comply with the principle of equal treatment or by failure to comply with the conditions according to paragraph 3, may have recourse to a court and claim of legal protection stipulated by separate Act on Equal Treatment in Certain Areas and on the Protection against Discrimination and on Amending and Supplementing Certain Acts (Antidiscrimination Act).

(7) An employee who feels that his/her privacy has been infringed on the workplace or in public areas as a result of a violation of paragraph (4), may apply to a court for legal protection.

According to Section 4 of Act No. 365/2004 Coll. (Antidiscrimination act):

(1) This Act does not apply to:

a) different treatment based on the conditions of entry and residence of foreigners on the territory of the Slovak Republic, including their treatment under separate legislation (e.g. Act No. 404/2011 Coll. on Aliens and on amendments to certain acts, Act No. 480/2002 Coll. on asylum), except for nationals of other Member States of the EU, EEA and Swiss Confederation, stateless persons and their family members;

b) different treatment based on disability or age which derives from the provisions of separate legislation governing state service of professional soldiers, armed security services, security services, National Security Office, Slovak Information Service and fire brigade; this does not apply in the case of an employee carrying out work in a labour law relationship.

2) Provisions of this act do not interfere with the right to organise and the right to establish trade unions.

Opinion of the Committee:

The undertaking of States under this sub-heading is to eliminate all legal and *de facto* discrimination concerning access to public and private housing.

There must be no legal or *de facto* restrictions on home-buying, access to subsidised housing or housing aids, such as loans or other allowances.

In the light of the current legal situation and practice as described above, the Committee is of the view that there are no major obstacles to the acceptance of Article 19§4 (c) of the Charter. It recalls that Article 19§4 does not require States to provide housing for everyone but to ensure non-discrimination in access.

Article 19§8 Guarantees concerning deportation

Situation in the Slovak Republic

The report states that the Slovak Republic is not able to accept Article 19§8 of the Charter because the expulsion of foreigners (migrant workers) is also possible for different reasons than those provided by this provision.

The report notes that this provision of the Charter could be implemented under Section 87 paragraph 1 and 2 of Act No. 404/2011 Coll. on aliens which apply only to citizens of the EU and their family members. Deportation of other categories of foreigners is possible for reasons that are not allowed by the Charter.

In particular, Section 82 of Act No. 404/2011 Coll. on aliens governs the reasons for administrative expulsion:

(1) The police department applies administrative expulsion of third country nationals if they:

- a) illegally cross the state border, intentionally avoid or refuse to submit to border control when crossing the external border,
- b) illegally stay in the territory of the Slovak Republic.

(2) The police department may administratively expel nationals of third country when they:

- a) represent a serious threat for the security of the State or public order,
- b) are a threat to national security, public order or public health,
- c) have been convicted of an intentional criminal act and they have not been subject to expulsion,
- d) have violated the law on narcotics and psychotropic substances,
- e) have submitted false or forged documents or documents belonging to another person during a control carried out under this Act,
- f) have entered into a marriage of convenience,
- g) obstruct the execution of a State body decision,
- h) have had their visa annulled or revoked by a police department,
- i) stated false, incomplete or misleading information or presented false or forged documents during proceedings under this Act,
- j) perform a different activity than that for which they have been granted temporary residence or visa,
- k) reside in the territory of the Slovak Republic on the basis of an international agreement or a decision of the Government of the Slovak Republic and they

act in contradiction with the international agreement or decision of the Government of the Slovak Republic,

- l) refuse to prove their identity in a credible way,
- m) the purpose for which the third country national has been granted a temporary residence does no longer exist and the third country national has not informed the police department of this fact,
- n) did not leave within the time stipulated in Section 111 paragraph 1 letter p) or,
- o) otherwise seriously or repeatedly violated generally binding legal regulations.

(3) The police department may - in the decision on administrative expulsion - issue a ban on entry

- a) for 10 years in accordance with paragraph 2 letter a),
- b) for 1 to 5 years in accordance with paragraph 1 and paragraph 2 letters b) to i),
- c) for 1 to 3 years in accordance with paragraph 2 letter j), k) and o),
- d) for 1 year in accordance with paragraph 2 letters l) to n).

(4) During the administrative procedure for expulsion, the police department specifically addresses if more than one decision on administrative expulsion was issued for the third country national or if the third country national has entered the territory of the Slovak Republic during his/her ban on entry.

(5) If the police department became aware of the facts listed in paragraph 4, the decision on administrative expulsion shall contain an entry ban to all Member States.

(6) The police department shall decide on the ban of entry to the territory of the Slovak Republic or all Member States for the period determined in accordance with paragraph 3 above, if the third country national has not left within the time set in the decision on administrative expulsion; this does not apply if the ban of entry was already listed in the decision on administrative expulsion.

(7) The police department may decide on the ban on entry to the territory of the Slovak Republic for the period of 3 to 5 years for a third-country national who has submitted false or forged documents or documents belonging to another person at the border control.

(8) If multiple grounds for administrative expulsion in accordance with paragraph 1 and 2 exist and the police department imposes a ban on entry in the decision on administrative expulsion, the time of the ban on entry shall be equal to the most stringent provision.

(9) The police department shall issue a decision on administrative expulsion in accordance with paragraph 1 letter b) without the ban on entry, if the third country national comes voluntarily to the police department and asks to return to his/her country of origin within the assisted voluntary return.

(10) The ban on entry period begins:

- a) the day of the execution of administrative expulsion,
- b) the day of departure under assisted voluntary return, or

c) after the deadline for departure specified in the decision on administrative expulsion if this is not the case according to letter a) or b).

(11) If the police department finds that the person has not left the Slovak Republic after the start of the ban on entry period has been marked in the register of undesirable persons, this period begins to run from the date of execution of administrative expulsion.

(12) The ban of entry period shall expire on the day which coincides with the day when the event marking the start of the period occurs. If such a day in the given month does not exist, the period ends on the last day of the given month.

(13) In the decision on administrative expulsion the police department shall indicate the country in which the third country national has the long-term residence as a country where this person shall be expelled; this does not occur when the administrative expulsion is carried out in accordance with paragraph 2 letter a) or b).

Opinion of the Committee:

This provision obliges States to prohibit by law the expulsion of migrants lawfully residing in their territory, except where they are a threat to national security, or offend against public interest or morality.

Expulsion for offences against public order or morality can only be in conformity with the Charter if they constitutes a penalty for a criminal act, imposed by a court or a judicial authority, and are not solely based on the existence of a criminal conviction but on all aspects of the non-nationals' behaviour, as well as the circumstances and the length of time of his/her presence in the territory of the State.

Risks to public health are not in themselves risks to public order and cannot constitute a ground for expulsion, unless the person refuses to undergo suitable treatment.

The fact that a migrant worker is dependent on social assistance cannot be regarded as a threat against public order and cannot constitute a ground for expulsion.

States must ensure that foreign nationals served with expulsion orders have a right of appeal to a court or other independent body, even in cases where national security, public order or morality are at stake.

Migrant worker's family members, who have joined him or her through family reunion, may not be expelled as a consequence of his or her own expulsion, since these family members have an independent right to stay in the territory. Moreover, for as long as a migrant workers' family members hold a right of residence it must not be possible to remove them, even if the migrant worker has personally lost this right, except where they endanger national security or offend against public interest or morality. Finally, the impossibility of expelling or removing a migrant worker which follows either from a State Party's undertakings pursuant to the Charter or from choices specific to that State and enshrined in its legislation, presupposes that the migrant worker is not placed in a situation of non-law as regards residence.

National legislation should reflect the legal implications of Article 18§1 of the Charter read in conjunction with Article 19§8 as informed by the case-law of the ECtHR: foreign nationals who have been resident for a sufficient length of time in a state, either legally or with the tacit acceptance of their illegal status by the authorities in view of the host country's needs, should be covered by the rules that already protect other foreign nationals from deportation.

Collective expulsions are not in conformity with the Charter; decisions on expulsion may be made only on the basis of a reasonable and objective examination of the particular situation of each individual: in its decision on the merits in Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, the Committee found that while Italian law provided that expulsions could only be ordered on an individual basis, certain practices targeting Roma and Sinti ("security measures", *emergenza rom*) offered a collective basis to proceed to collective expulsion, which amounted to a violation of Article E in conjunction with Article 19§8.

The guarantees against expulsion contained in this paragraph only apply to migrant workers and his or her family members if these persons reside lawfully in the territory of the State.

In the light of the current legal situation and practice as described in the report, the Committee is of the view that the situation does not appear to be fully in conformity with Article 19§8 of the Charter as the grounds for expulsion go beyond those permitted by the Charter.

Article 19§10 Equal treatment for the self-employed

Situation in the Slovak Republic

The report states that the Slovak Republic is not able to accept Article 19§10 of the Charter because requirements and conditions set out in paragraphs 2, 3, 4 and 8 of Article 10 cannot be applied to self-employed migrant workers. The current legal situation allows the Slovak Republic to apply directly or by analogy only paragraphs 1, 5, 6, 7, 9, 11 and 12 of Article 19 of the Charter to self-employed migrant workers.

The self-employed workers are especially entrepreneurs whose activities are governed by Act No. 455/1991 Coll. on trade licensing. This trade is a systematic activity pursued independently, on the person's own behalf, on their own responsibility for profit and under conditions laid down by the Act. These persons also have their own organisation – The Slovak Trades Association.

Opinion of the Committee:

Under this provision, States must ensure that the rights provided for in paragraphs 1 to 9, 11 and 12 are extended to self-employed migrant workers and their families.

States must ensure that there is no unjustified treatment which amounts to discrimination, in law or in practice between wage-earners and self-employed migrants; In addition equal treatment between self-employed migrants and self-employed nationals must be guaranteed in the areas covered by this provision.

A finding of non-conformity under paragraphs 1 to 9, 11 and/or 12 of Article 19 may lead to a finding of non-conformity under paragraph 10.

In the light of the current legal situation and practice as described in the report, the Committee is of the view that the situation does not appear to be fully in conformity with Article 19§10 of the Charter.

Article 19§12 Teaching mother tongue of migrant

Situation in the Slovak Republic

The report states that the Slovak Republic is not able to accept Article 19§12 of the Charter because, from the point of view of the application of the Slovak School Act, this provision of the Charter is not ratifiable, as there is no indication whether teaching in a language other than the language of the State must be free of charge or not.

According to the report, Section 12 of the School Act (Act No. 245/2008 Coll. on Education) specifies the use of education language:

- (1) The language of education according to this Act is the language of education and instruction.
- (2) The language of education and teaching in the state schools is the language of the State (Act No. 270/1995 Coll. on State Language of the Slovak Republic), unless specified otherwise by this Act.
- (3) Children and pupils belonging to national minorities have the right to education, alongside the state language, in their own language under the conditions provided by this Act. A compulsory subject on the Slovak language and literature at the level required to master the state language must be included in the curriculum of primary and secondary schools with the language of education different from the state language.

Furthermore, the report notes that in accordance with Section 146 paragraph 7 of the School Act, schools other than public schools that provide education in a language other than the state language in return for financial compensation may be established for the children of foreigners legally residing in the Slovak Republic.

Opinion of the Committee:

The undertaking of States under this provision is to promote and facilitate the teaching, in schools or other structures, such as voluntary associations, of those languages that are most represented among migrants within their territory. States should promote and facilitate the teaching of the languages most represented among the migrants present on their territories within their school systems or in other contexts such as voluntary associations or non-governmental organisations.

In the light of the current legal situation and practice as described in the report, the Committee is of the view that, taking into account the fact that children and pupils belonging to national minorities have the right to education, alongside the state language, in their own language, this provision could possibly be accepted by the

Slovak Republic subject to further analysis, in particular as regards the situation of adults in this respect.

Article 31§1 Adequate housing

Situation in the Slovak Republic

The report states that the Slovak Republic is not able to accept Article 31§1 of the Charter because of the related financial burden and because of the country's inability to meet the prescribed requirements. In particular, there is no law on housing support or any other similar legislation.

The report mentions the following legal instruments that may provide grants in the field of housing:

- Act No. 443/2010 Coll. on Housing Development Funds and on Social Housing,
- Notice of the Ministry of Construction and Regional Development of the Slovak Republic on issuing the decree which amends the decree of the Ministry of Construction and Regional Development of the Slovak Republic of 7 December 2006, No. V-1/2006 on Provision of Funding for the Development of Housing (Notice 576/2007 Coll.) and
- Notice of the Ministry of Construction and Regional Development of the Slovak Republic on issuing the decree which amends the decree of the Ministry of Construction and Regional Development of the Slovak Republic of 28 November 2007, No. V-1/2007 (Notice 275/2008 Coll.).

Grants may be provided for:

- a) the acquisition of a rental flat for the purpose of social housing under this Act,
- b) the acquisition of technical equipment,
- c) the removal of systemic malfunction of an apartment building.

Support from the State Housing Development Fund is governed by the Act 150/2013 Coll. on State Housing Development Fund. The Ministry of Transport, Construction and Regional Development of the Slovak Republic, pursuant to paragraph 21 of this Act, may issue a regulation setting out the details on the types and amounts of the support for various purposes from the State Housing Development Fund.

Housing Development Fund was created to finance state aid in the expansion and construction of housing for natural and legal persons. Support can take the form of loans and non-repayable contribution. Grant aid is intended for a specific group of candidates, among others for people with severe disabilities (by law).

The State Housing Development Fund is established to finance state aid in expanding and construction of housing for natural and legal persons. Support may take the form of loans and non-repayable contribution. Grant assistance is intended for a specific group of applicants, among others for people with severe disabilities (according to the law).

The resources of the State Housing Development Fund are intended especially for vulnerable groups in society - for groups of citizens with limited household income.

Application of the rent regulation is based on the Measure of the Ministry of Finance of the Slovak Republic of 23 April 2008, No. 01/R/2008 on Regulation of Rent for Apartments (Notice No. 158/2008 Coll.) in accordance with the Measure of the Ministry of Finance of the Slovak Republic of 25 September 2008, No. 02/R/2008 (Notice No. 372/2008 Coll.).

Section 14 paragraph 3, 4 and 5 of Act No. 417/2013 Coll. on Aid in Material Need governs the housing allowance:

- (3) Housing allowance is granted if a member of the household
 - a) is the owner or co-owner of the apartment, owner or co-owner of the house, who lives in the given household,
 - b) rents the apartment, the house or a room in an establishment for permanent living, who lives in the given household.

- (4) Housing allowance is granted if members of the household live:
 - a) in assisted living facilities, facilities for the elderly, social services facilities or in a specialised facility which provides social services to an adult person living in the facility all year round, in a shelter, in a halfway home, in an emergency shelter or in a crisis centre, or
 - b) in an apartment or a house on the basis of the life-time use law; provision of reimbursement for services related to housing is not required.

- (5) Housing allowance is granted if a member of the household or all members of the household:
 - a) pay for services and utilities related to housing and property tax in an apartment in accordance with paragraph 3 letter a), or in case when they have overdue payments related to the payment for services and utilities related to housing and they submit an agreement on repayment and a confirmation of proper fulfilment of rescheduling,
 - b) pay property tax and fees for municipal waste when living in a house in accordance with paragraph 3 letter a),
 - c) pay rent and cover the cost of housing services when living in an apartment, in a house or in a room in an establishment for permanent living in accordance with paragraph 3 letter b), if such a rent is agreed on in a rental contract or when they have overdue payments related to the payment for services and utilities related to housing and they submit an agreement on repayment and a confirmation of proper fulfilment of rescheduling,
 - d) cover the expenses for social services in a social services establishment or pay for care in a social protection of children and social guardianship facility.

Act No. 73/1998 Coll. on State Service of the Members of the Police Forces, the Slovak Information Service, the Prison and Court Guard and the Railway Police introduces a housing allowance in its Section 141a. It states that a member of the above mentioned forces is eligible for a housing allowance amounting to 232.36€ on

a monthly basis, unless otherwise specified. The Minister of Interior decides on the provision of this allowance, on the basis of geographic position of the workplace and character of the work carried out by the organisational unit. Reasons for not providing the allowance are also specified.

In accordance with Section 1 paragraph 2 letter i) of the Notice of the Ministry of Health of the Slovak Republic No. 259/2008 Coll. on requirements of indoor environment of facilities and on minimum standards of lower standard apartments and on housing facilities, the housing facilities of lower standards are especially shelters and seasonal housing facilities.

The Notice of the Ministry of Economy of the Slovak Republic No. 277/2008 Coll. on classification features of housing facilities and their categorisation stipulates categories and classification of housing facilities, as well as requirements which have to be met by individual housing facilities in order to be classified in particular categories. This categorisation also applies to housing facilities maintained by entrepreneurs providing accommodation and related services on the basis of trade license.

The issue of housing as a fundamental social need and its availability and sustainability is directly related to the necessity of legal relations adoption in the limited housing stock, which is still influenced by rent regulation and where the owner is not part of the public sector, both in the interest of tenants of this apartment fund, but also its private owners. This represents a problem that has not been solved for a long time. Finding a fair and balanced legal solution is very complicated, but necessary as the final coping with the past, especially when it comes to the impact of restitution measures to be adopted, as far as persons living in this property are concerned.

The Charter contains vested rights that have to be guaranteed by the State to its citizens. However, no citizen of the Slovak Republic has an automatic right to housing in any form, even if they have no housing at their disposal.

The report underlines that the measures adopted by the State, as listed above, are only of partial and supplementary nature. Even though the legislation of the Slovak Republic regulates grants for the development of housing, this cannot be listed as a guarantee of housing, as is prescribed by Article 31§1 of the Charter. Acquisition of rental apartments is in direct competence of the self-governing regions and municipalities and the citizens do not have any direct rights from this. The municipalities may, or may not make use of rental housing. If a municipality decides not to build facilities with the aim of establishing rental housing, citizens cannot claim their rights that would be listed in this provision of the Charter. In particular, there is no legal measure on direct support of housing or similar legislation.

The provision of housing allowance, an allowance bound by specific pre-conditions, cannot be considered adequate, because this allowance is only provided to natural persons in material need, who usually are owners of a property or rent it. On top of that, this allowance does not automatically have to be granted in full amount, because this allowance and any other allowances related to material need are provided in a single sum and its amount is calculated as a difference between the

amount of claims as stipulated by the Act on material need and income. As a result, this allowance is aimed for different groups of individuals than those covered by this provision of the Charter. The housing allowance does not therefore target individuals without any sort of housing but those, who have their housing needs covered in a certain way. On top of that, it is questionable whether it is provided at “adequate level”.

The Slovak Republic is bound by the International Covenant on Economic, Social and Cultural Rights (Decree of the Minister of Foreign Affairs No. 120/1976 Coll. and point 9 of the Notice No. 53/1994 Coll.). Article 11§1 of the Covenant states: “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.”

This provision of the Covenant uses the phrase “recognize the right of everyone to an adequate standard of living”, which is of declarative nature. The second sentence states “will take appropriate steps to ensure the realization of this right” which is of bounding character. Article 31§1 of the Charter states “With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed to promote access to housing of an adequate standard”.

Comparing Article 11§1 of the Covenant and Article 31§1 of the Charter leads to the conclusion that the Charter prescribes a much more extensive commitment than the Covenant.

Opinion of the Committee:

The Committee has given the following interpretation of this provision:

Definition and Material scope

States must guarantee to everyone the right to adequate housing. They should promote access to housing in particular to the different groups of vulnerable persons, such as low-income persons, unemployed persons, single parent households, young persons, persons with disabilities including those with mental health problems.

The notion of adequate housing must be defined in law. “Adequate housing” means:

1. a dwelling which is safe from a sanitary and health point of view, i.e. that possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity, etc and where specific dangers such as the presence of lead or asbestos are under control;
2. a dwelling which is not over-crowded, that the size of the dwelling must be suitable in light of the number of persons and the composition of the household in residence;
3. a dwelling with secure tenure supported by the law. This issue is covered by Article 31§2.

The definition of adequate housing must be applied not only to new constructions, but also gradually to the existing housing stock. It must also be applied to housing available for rent as well as to housing owner occupied housing.

The Committee holds that positive measures in the field of housing must be adopted in respect of vulnerable persons, paying particular attention to the situation of Roma and Travellers. It has found that as a result of their history, the Roma have become a specific type of disadvantaged group and vulnerable minority. They therefore require special protection. Special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases.

A problem of non-conformity under this provision in several countries has resulted from the failure to provide a sufficient number of halting sites for Travellers as well as the poor living conditions on such sites.

Likewise, housing policies which have resulted in the spatial and social segregation of Roma (poorly built housing, on the outskirts of towns, segregated from the rest of the population), have also led to breaches of the Charter.

Effectiveness

It is incumbent on the public authorities to ensure that housing is adequate through different measures such as, in particular, an inventory of the housing stock, injunctions against owners who disregard obligations, urban development rules and maintenance obligations for landlords. Public authorities must also limit against the interruption of essential services such as water, electricity and telephone.

Even if under domestic law, local or regional authorities, trade unions or professional organisations are responsible for exercising a particular function, States parties to the Charter are responsible, under their international obligations to ensure that such responsibilities are properly exercised. Thus, ultimate responsibility for policy implementation, involving at a minimum supervision and regulation of local action, lies with the Government which must be able to show that both local authorities and itself have taken practical steps to ensure that local action is effective.

Legal protection

The effectiveness of the right to adequate housing requires its legal protection through adequate procedural safeguards. Occupiers must have access to affordable and impartial legal and non-legal remedies. Any appeal procedure must be effective.

In the light of the current legal situation and practice as described in the report, the Committee is of the view that the situation does not appear to be fully in conformity with Article 31§1 of the Charter.

Article 31§2 Reduction of homelessness

Situation in the Slovak Republic

The report states that the Slovak Republic is not able to accept Article 31§2 of the Charter because, despite some measures adopted to prevent homelessness, the actual operation of shelters and provision of food cannot be characterised as “prevention of homelessness with the view of its gradual elimination”. That fact that a person lives in a shelter and is provided with food does not mean that they have ceased to be homeless. These transitional measures help to ease the burden of the homeless persons, but they do not eliminate or lower the level of homelessness. There is no legislation aimed at prevention and reduction of homelessness.

The report lists measures taken in the field of prevention of homelessness. Pursuant to Section 26 of Act No. 448/2008 Coll. on Social Services and on amendment of Act No. 455/1991 Coll. (Trade-licensing Act), self-governing regions and municipalities establish social services facilities which also include shelters. Municipalities also establish personal hygiene centres and laundries. These social services facilities provide social services to homeless persons as well.

Section 26 of Act No. 448/2008 Coll. on Social Services and on amendment of Act No. 455/1991 Coll. (Trade-licensing Act) states that:

(1) Pursuant to Section 2 paragraph 2 letter a), a person who does not have housing at their disposal, or is unable to keep living in their present housing:

- a) Is, in a shelter, provided with
 - a. Housing for a specified period of time,
 - b. Social counselling,
 - c. Assistance with applying for their rights and protected interests,
 - d. Work rehabilitation,
 - e. Necessary clothing and shoes,

- b) Shall, in a shelter, have conditions for
 - a. Preparation of food, provision of food or provision of groceries,
 - b. Necessary personal hygiene,
 - c. Washing, ironing and repairing of their clothes,
 - d. Leisure activities.

(2) Social service providers shall provide this social service separately for individuals and separately for families with children or for individuals with children.

Furthermore, the report stresses that in order to prevent and lower homelessness with the aim of its total elimination, it is necessary to develop on-going coordinated efforts of central public administration bodies, self-governing regions, municipalities and towns, as well as private subjects, religious institutions and to develop adequate measures to reach this goal together with the homeless persons themselves.

Opinion of the Committee:

The Committee has given the following interpretation of this provision:

Definition

Homeless persons are those persons who legally do not have at their disposal a dwelling or other form of adequate housing in the terms of Article 31§1.

Preventing homelessness

States must take action to prevent categories of vulnerable people from becoming homeless. In addition to a housing policy for all disadvantaged groups of people to ensure access to social housing (cf. Article 31§3).

Though State authorities enjoy a wide margin of discretion in measures to be taken concerning town planning, they must strike a balance between the general interest and the fundamental rights of the individuals, in particular the right to housing and its corollary of ensuring individuals do not become homeless.

Forced eviction can be defined as the deprivation of housing which a person occupied due to insolvency or wrongful occupation. States must set up procedures to limit the risk of eviction.

Illegal occupation of a site or dwelling may justify the eviction of the illegal occupants. However, the criteria of illegal occupation must not be unduly wide.

The eviction should be governed by rules of procedure sufficiently protective of the rights of the persons concerned and should be carried out according to these rules.

Legal protection for persons threatened by eviction must include, in particular, an obligation to consult the parties affected in order to find alternative solutions to eviction and the obligation to fix a reasonable notice period before eviction.

When evictions do take place, they must be carried out under conditions which respect the dignity of the persons concerned. The law must prohibit evictions carried out at night or during the winter period. When an eviction is justified by the public interest, authorities must adopt measures to re-house or financially assist the persons concerned.

Domestic law must provide legal remedies and offer legal aid to those who are in need of seeking redress from the courts. Compensation for illegal evictions must also be provided.

Right to shelter

According to Article 31§2, homeless persons must be offered shelter as an emergency solution. Moreover, to ensure that the dignity of the persons sheltered is respected, shelters must meet health, safety and hygiene standards and, in particular, be equipped with basic amenities such as access to water and heating

and sufficient lighting. Another basic requirement is the security of the immediate surroundings.

States should foresee sufficient places in emergency shelters and the conditions in the shelters should be such as to enable living in keeping with human dignity.

The temporary supply of shelter, however adequate, cannot be considered satisfactory; Individuals who are homeless should be provided with adequate housing within a reasonable period. In addition, measures should be taken to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness.

Since the right to shelter is closely connected to the right to life and is crucial for the respect of every person's human dignity, under Article 31§2 of the Charter, States Parties are required to provide adequate shelter also to children unlawfully present in their territory for as long as they are in their jurisdiction.

In the light of the current legal situation and practice as described in the report, the Committee is of the view that the Slovak Republic could consider acceptance of this provision, in particular having regard to the listed measures taken to prevent homelessness in practice.

Article 31§3 Affordable housing

Situation in the Slovak Republic

The report states that the Slovak Republic is not able to accept Article 31§3 of the Charter because the measures adopted by the State in the field of housing are only of partial and supplementary nature. In particular, there is no legal measures on direct support of housing or similar legislation.

Furthermore, the report lists the legal instruments and arguments mentioned in the analysis of the situation under Article 31§1.

Opinion of the Committee:

An adequate supply of affordable housing must be ensured for persons with limited resources.

Housing is affordable if the household can afford to pay initial costs (deposit, advance rent), current rent and/or other housing-related costs (e.g. utility, maintenance and management charges) on a long-term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located. In order to establish that measures are being taken to make the price of housing accessible to those without adequate resources, States Parties to the Charter must show not the average affordability ratio required of all those applying for housing, but rather that the affordability ratio of the poorest applicants for housing is compatible with their level of income.

States must:

- adopt appropriate measures for the provision of housing, in particular social housing; social housing should target, in particular, the most disadvantaged;
- adopt measures to ensure that waiting periods for the allocation of housing are not excessive; legal and non-legal remedies must be available when waiting periods are excessive;
- introduce housing benefits at least for low-income and disadvantaged sections of the population. Housing benefit is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.

All the rights thus provided must be guaranteed without discrimination, in particular as in respect of Roma or travellers.

In the light of the current legal situation and practice as described in the report, the Committee is of the view that the situation does not appear to be fully in conformity with Article 31§2 of the Charter.

Appendix 1: The Slovak Republic and the European Social Charter

– The Slovak Republic and the European Social Charter –

Dates of Ratifications and provisions accepted

1961 European Social Charter: ratified on 22/06/1998, 60 paragraphs accepted out of 72

1988 Additional Protocol to the Charter: ratified on 22/06/1998, all 4 articles accepted.

1991 Amending Protocol to the Charter: ratified on 22/06/1998.

1995 Additional Protocol providing for a system of collective complaints: signed on 18/11/1999 (not ratified yet).

1996 Revised European Social Charter: ratified on 23/04/2009, 88 paragraphs accepted out of 98.

Accepted provisions

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

¹ Sub-paragraphs a. and b. accepted

The Charter in domestic law: Article 11 of the Constitution: "International instruments on human rights and freedoms ratified by the Slovak Republic and promulgated under statutory requirements shall take precedence over national laws provided that the international treaties and agreements guarantee greater constitutional rights and freedoms."

Reports*

Between 2001 and 2015, the Slovak Republic submitted 7 reports on the application of the Charter and 5 reports on the application of the Revised Charter.

The 4th report, submitted on 12 November 2013, covers the accepted provisions relating to Thematic Group 3 "Labour rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28 and 29).

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

The 5th report, submitted on 2 December 2014, concerns the accepted provisions relating to Thematic Group 4 "Children, family, migrants", namely:

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

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

Conclusions with respect to these provisions will be published in January 2016.

* [Following a decision taken by the Committee of Ministers in 2006](#), the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

Situation of the Slovak Republic with respect to the application of the Revised Social Charter

Examples of progress achieved in the application of social rights under the European Social Charter ¹

Non-discrimination

► Prohibition of direct and indirect discrimination (Anti-Discrimination Act No. 365/2004 on equal treatment in certain areas, on protection against discrimination and on the amendment of certain acts). Following an amendment in 2008, this act henceforth defines and prohibits sexual harassment.

Right to safe and healthy working conditions

► Adoption of several laws and regulations on minimum safety and health requirements at work, covering most of the relevant risks, i.e. among others, those related to health protection at work with ionising radiations, carcinogens, biological and chemical agents, asbestos, noise and vibrations, as well as minimum safety and health requirements for the use of work equipment and for the manual handling of loads at work.

Vocational continuing training

► Measures taken by employers to deal with the decline in skilled labour in the face of technological and/or economic progress (Act No. 386/1997 on the system of further training).

► Equal treatment in relation to vocational continuing training is guaranteed to nationals of other states party to the Charter and the Revised Charter who reside legally and work regularly in Slovakia (Act No. 5/2004).

Employment

► Prohibition of dismissal of a police officer for performing a union function in a trade union body (Act 73/1998 on the Service of Members of the Police Force, Slovak Information Service, Corps of Prison and Court Guards and Railway Police, as amended)

Participation of workers in the determination and improvement of the working conditions

► Trade unions and work councils are allowed to operate concurrently within an undertaking (Amendment No. 210/2003 to the Labour Code).

► Existence of legal remedies for employees' representatives (labour inspection and supervisory bodies) in the event the employer fails to eliminate shortcomings in the protection of health and safety at the workplace which the employees' representatives have pointed out (Act No. 330/1996).

¹ « 1. The [European Committee of Social Rights] ... rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure » (Article 2 of the Rules of the Committee).

Right to protection of health

- ▶ Incorporation of health education and promotion in school curricula (Conclusions 2013).

Cases of non-conformity

Thematic Group 1 “Employment, training and equal opportunities”

- ▶ *Article 1§1 - Right to work - Policy of full employment*

Employment policy efforts have been inadequate in view of the persisting high levels of unemployment in a context of relative economic growth.

[Conclusions 2012](#)

- ▶ *Article 1§2 - Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

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

[Conclusions 2012](#)

- ▶ *Article 1§3- Right to work – Free placement services*

It has not been established that placement services operate in an efficient manner.

[Conclusions 2012](#)

- ▶ *Article 1§4 - Right to work - Vocational guidance, training and rehabilitation*

It has not been established that:

- vocational guidance services operate in an efficient manner;
- the right to vocational training of employed and unemployed persons is adequately guaranteed;
- the right of persons with disabilities to mainstream training is effectively guaranteed.

[Conclusions 2012](#)

- ▶ *Article 9 - Right to vocational guidance*

It has not been established that vocational guidance services operate in an efficient manner.

[Conclusions 2012](#)

- ▶ *Article 10§1 - Right to vocational training - Promotion of technical and vocational training; access to higher technical and university education*

It has not been established that the right to vocational education is adequately guaranteed.

[Conclusions 2012](#)

- ▶ *Article 10§2 - Right to vocational training – Apprenticeship*

It has not been established that the right to apprenticeship is adequately guaranteed.

[Conclusions 2012](#)

- ▶ *Article 10§3 - Right to vocational training - Vocational training and retraining of adult workers*

It has not been established that:

- the right to vocational training of employed persons is adequately guaranteed, and that
- the right to vocational training of unemployed persons is adequately guaranteed.

[Conclusions 2012](#)

► *Article 15§1 (and Article 1§4) - Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement - Education and training for persons with disabilities (Right to work - Vocational guidance, training and rehabilitation)*

It has not been established that mainstreaming of persons with disabilities is effectively guaranteed in education and training.

[Conclusions 2012](#)

► *Article 15§2 – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement - Employment of persons with disabilities*

- It has not been established that there is effective anti-discrimination legislation;
- It has not been established that persons with disabilities are guaranteed an effective equal access to employment.

[Conclusions 2012](#)

Article 18§1 - Right to engage in a gainful occupation in the territory of other States Parties- Applying existing regulations in a spirit of liberality

It has not been established that existing regulations are applied in a spirit of liberality.

[Conclusions 2012](#)

► *Article 18§2 - Right to engage in a gainful occupation in the territory of other States Parties – Simplifying existing formalities and reducing dues and taxes*

The formalities for the granting of temporary residence permits have not been simplified.

[Conclusions 2012](#)

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

It has not been established that equal opportunities and equal treatment in matters of employment without discrimination on grounds of sex are guaranteed.

[Conclusions 2012](#)

Article 24 - Right to protection in case of dismissal

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

[Conclusions 2012](#)

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

► *Article 3§2 – Right to safe and healthy working conditions – Safety and health regulations*

It has not been established that agency and temporary workers and workers on fixed-term contracts enjoy the same standard than workers in permanent employment.

[Conclusions 2013](#)

► *Article 12§1 – Right to social security - Existence of a social security system*

- The minimum level of unemployment benefit is inadequate;
- The minimum level of sickness benefit is inadequate;
- The minimum level of pension benefit is inadequate;
- The ground on which sickness benefit can be reduced is discriminatory.

[Conclusions 2013](#)

► *Article 12§4 - Right to social security - Social security of persons moving between states*

It has not been established that:

- the retention of accrued benefits is guaranteed to nationals of all other State Parties;

- the right to maintenance of accruing rights is guaranteed to nationals of all other State Parties.

[Conclusions 2013](#)

► *Article 13§1 - Right to social security - Right for every person in need to adequate assistance*
The level of social assistance paid to a single person without resources is manifestly inadequate.

[Conclusions 2013](#)

► *Article 13§3 - Right to social security - Prevention, abolition or alleviation of need*
It is not established that everyone may receive by the competent services such advice and personal help as may be required to prevent, to remove or to alleviate personal or family want.

[Conclusions 2013](#)

► *Article 23 - Right of the elderly to social protection*
The level of social assistance for elderly persons with low income is manifestly inadequate.

[Conclusions 2013](#)

Thematic Group 3 “Labour rights”

► *Article 2§1 - Right to just conditions of work - Reasonable working time*

The working hours in a 24 hours period may be up to 16 hours.

[Conclusions 2014](#)

► *Article 2§2 - Right to just conditions of work - Public holidays with pay*

Work performed on a public holiday is not adequately compensated, when the minimum standards of compensation are applied.

[Conclusions 2014](#)

► *Article 2§5 - Right to just conditions of work – Weekly rest period*

The weekly rest can be postponed for a period exceeding twelve consecutive working days.

[Conclusions 2014](#)

► *Article 4§1 - Right to a fair remuneration - Decent remuneration*

The minimum wage does not ensure a decent standard of living.

[Conclusions 2014](#)

► *Article 4§2 - Right to a fair remuneration - Increased remuneration for overtime work*

The time off to compensate overtime work is not sufficient.

[Conclusions 2014](#)

► *Article 4§4 - Right to a fair remuneration - Reasonable notice of termination of employment*

- Notice periods on dismissal on economic, health, or any other grounds are not reasonable beyond five years of service;

- Three days' notice periods on dismissal during the probationary period are not reasonable. The length of service of employees who work fewer than fifteen hours a week is not taken into account when calculating notice periods.

[Conclusions 2014](#)

► *Article 4§5 - Right to a fair remuneration - Limits to deduction from wages*

- Workers may waive their right to limitations on deductions from wages;

- After all authorised deductions, the wages of workers with the lowest pay do not enable them to provide for themselves or their dependants. Deductions from wages may deprive workers of the means of subsistence required to provide for themselves and their families.

[Conclusions 2014](#)

► *Article 6§2 - Right to bargain collectively - Negotiation procedures*

Voluntary negotiations are not sufficiently promoted in practice

[Conclusions 2014](#)

► *Article 6§4 - Right to bargain collectively - Collective action*

The restrictions on the right to strike for certain categories of employees (employees of healthcare or social care facilities; employees operating nuclear power plant facilities, facilities with fissile material and oil or gas pipeline facilities; judges, prosecutors and air traffic controllers; members of the fire brigade, members of rescue teams set up under special regulations, and employees working in telecommunications operations) do not comply with the conditions provided by Article G of the Charter.

[Conclusions 2014](#)

► *Article 28 - Right of workers' representatives to protection in the undertaking and facilities to be accorded to them*

The legislation does not provide for adequate protection in the event of an unlawful dismissal based on trade union membership or activities.

[Conclusions 2014](#)

Thematic Group 4 "Children, families, migrants"

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

It has not been established that the definition of light work and its duration are sufficiently precise.

[Conclusions 2011](#)

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

It has not been established that the definition of light work and its duration for children subject to compulsory education are sufficiently precise.

[Conclusions 2011](#)

► *Article 7§5 – Right of children and young persons to protection - Fair pay*

It has not been established that young workers receive a fair pay.

[Conclusions 2011](#)

► *Article 8§1– Right of employed women to protection - Maternity leave*

Maternity benefits are not of an adequate level.

[Conclusions 2011](#)

► *Article 8§2 – Right of employed women to protection - Illegality of dismissal during maternity leave*

The dismissal of pregnant women and women on maternity leave can be justified by the relocation of activities of the undertaking where they are employed.

[Conclusions 2011](#)

► *Article 16 – Right of the family to social, legal and economic protection*

The right to housing of Roma families is not effectively guaranteed. Entitlement to childbirth allowance and child-minding allowance is subject to an excessive length of residence requirement.

[Conclusions 2011](#)

► *Article 17§1* – Right of children and young persons to social, legal and economic protection - *Assistance, education and training*

All forms of corporal punishment of children are not explicitly prohibited in the home;

The maximum length of pre-trial detention of minors is excessive.

[Conclusions 2011](#)

► *Article 17§2* – Right of children and young persons to social, legal and economic protection - *Free primary and secondary education - regular attendance at school*

Roma children are disproportionately represented in special classes.

[Conclusions 2011](#)

The European Committee of Social Rights has been unable to assess compliance with the following provisions and has invited the Government of the Slovak Republic to provide more information in the next report thereon:

Thematic Group 1 “Employment, training and equal opportunities”

► Article 10§§4 and 5 - Conclusions 2012

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

► Article 3§1 – Conclusions 2013

► Article 11§§1, 2 and 3 - Conclusions 2013

► Article 12§3 - Conclusions 2013

► Article 30 - Conclusions 2013

Thematic Group 3 “Labour rights”

None

Thematic Group 4 “Children, families, migrants”

► Article 7§§2, 7 and 10 - Conclusions 2011

► Article 19§§1, 4 and 6 - Conclusions 2011

► Article 27§§1 and 2 - Conclusions 2011

Appendix 2 : Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter

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

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

The Committee of Ministers of the Council of Europe,

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

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

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

Emphasising that human rights must be enjoyed without discrimination;

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

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

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

1. Solemnly reaffirms the paramount role of the Charter in guaranteeing and promoting social rights on our continent;
2. Welcomes the great number of ratifications since the Second Summit of Heads of States and Governments where it was decided to promote and make full use of the Charter, and calls on all those member states that have not yet ratified the Revised European Social Charter to consider doing so;
3. Recognises the contribution of the collective complaints mechanism in furthering the implementation of social rights, and calls on those members states not having done so to consider accepting the system of collective complaints;
4. Expresses its resolve to secure the effectiveness of the Social Charter through an appropriate and efficient reporting system and, where applicable, the collective complaints procedure;
5. Welcomes the numerous examples of measures taken by States Parties to implement and respect the Charter, and calls on governments to take account, in an appropriate manner,

of all the various observations made in the conclusions of the European Committee of Social Rights and in the reports of the Governmental Committee;

6. Affirms its determination to support States Parties in bringing their domestic situation into conformity with the Charter and to ensure the expertise and independence of the European Committee of Social Rights;

7. Invites member states and the relevant bodies of the Council of Europe to increase their effort to raise awareness of the Charter at national level amongst legal practitioners, academics and social partners as well as to inform the public at large of their rights.