

## – The Czech Republic and the European Social Charter –

### Signatures, ratifications and accepted provisions

1961 European Social Charter: ratified on 03/11/1999, 51 paragraphs (initially 52) accepted out of 72 (Article 8, paragraph 4, initially accepted, was denounced on 25/03/2008).

1988 Additional Protocol to the Charter: ratified on 17/11/1999, all 4 articles accepted.

1991 Amending Protocol to the European Social Charter: ratified on 17/11/1999.

1995 Additional Protocol providing for a system of Collective complaints: ratified on 04/04/2012.

1996 Revised European Social Charter: signed on 04/11/2000, not ratified yet.

### The Charter in domestic law

Article 10 of the Constitution: "The ratified and promulgated international treaties on human rights and fundamental freedoms, by which Czech Republic is bound, shall be applicable as directly binding regulations having priority before the law."

### Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	3.1	3.2	3.3
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
9	10.1	10.2	10.3	10.4	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	16	17	18.1	18.2
18.3	18.4	19.1	19.2	19.3	19.4	19.5	19.6	19.7	19.8	19.9	19.10
AP1	AP2	AP3	AP4	AP= Additional Protocol				Grey = Accepted provisions			

## Monitoring the implementation of the European Social Charter <sup>1</sup>

### I. Collective complaints procedure<sup>2</sup>

#### Collective complaints (under examination)

*European Roma Rights Centre (ERRC) and Mental Disability Advocacy Centre (MDAC) v. Czech Republic (Complaint No. 157/2017)*

The Committee declared the [complaint admissible](#) on 23 January 2018.

*International Commission of Jurists (ICJ) v. Czech Republic (Complaint No. 148/2017)*

The Committee declared the [complaint admissible](#) on 13 September 2017.

*University Women of Europe (UWE) v. Czech Republic (Complaint No. 128/2016)*

The Committee declared the [complaint admissible](#) on 4 July 2017.

#### Collective complaints (proceedings completed)

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

###### a. Inadmissibility

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###### b. No violation

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

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

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##### 4. Complaints where the Committee has found a violation and where progress has been made but which has not yet been remedied.

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

*Transgender-Europe and ILGA-Europe v. Czech Republic (Complaint No. 117/2015)*

- Violation of Article 11 of the 1961 Charter (the right to protection of health).

[Decision on the merits of 15 May 2018.](#)

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<sup>1</sup> The European Committee of Social Rights ("the Committee") monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee 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 ». Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

<sup>2</sup> Detailed information on the Collective Complaints Procedure is available on the [relevant webpage](#).

*European Roma and Travellers Forum (ERTF) v. the Czech Republic (Complaint No. 104/2014)*

- Violation of Article 11 of the 1961 Charter (the right to protection of health)
- Violation of Article 16 of the 1961 Charter (right of the family to social, legal and economic protection)
- No violation of Article 11 of the 1961 Charter (the right to protection of health)

Decision on the merits of 17 May 2016.

- Resolution Res / CM ChS (2017) 2 du 22 February 2017

*Association for the protection of All Children (APPROACH) Ltd. v. the Czech Republic (Complaint No. 96/2013)*

- Violation of Article 17 of the 1961 Charter (the right of mothers and children to social and economic protection)

Decision on the merits of 20 January 2015.

Follow up:

- Resolution Res/CM ChS (2015)11 on 17 June 2015 of the Committee of Ministers.

- Assessment of the European Committee of Social Rights on the follow-up (20 May 2016)

- 2<sup>nd</sup> Assessment of the European Committee of Social Rights on the follow-up (19 September 2017)

## II. Reporting system<sup>3</sup>

### Reports submitted by the Czech Republic

Between 2001 and 2019, the Czech Republic has submitted 16 reports on the application of the 1961 Charter.

The [15<sup>th</sup> report](#), submitted on 24/10/2017, covers the accepted provisions of the Social Charter relating to thematic group 3 "Labour rights" (Articles 2, 4, 5, 6, Article 2 of the Additional Protocol and Article 3 of the Additional Protocol).

Conclusions with respect to these provisions have been published in March 2019.

The [16<sup>th</sup> report](#), submitted on 31/10/2018, concerns the follow-up given to the relevant decisions of the Committee in the framework of the collective complaints procedure.

The assessments of the Committee on the follow up to decisions in complaints will be published in January 2020.

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<sup>3</sup> 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.

Following a [decision taken by the Committee of Ministers in April 2014](#), States having accepted the collective complaints procedure are required, in alternation with the abovementioned report, to provide a simplified report on the measures taken to implement the decisions of the Committee adopted in collective complaints concerning their country. The alternation of reports is rotated periodically to ensure coverage of the four thematic groups.

Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

## Situations of non-conformity <sup>4</sup>

### Thematic Group 1 « Employment, training and equal opportunities » - Conclusions XX-1 (2012)

According to the applicable rules, Conclusions XXI-1 (2016) only refer to the information submitted by the Government of the Czech Republic on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions XX-1 (2012).

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

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

► *Article 1 of the 1988 Additional protocol – Right to equal opportunities and treatment in employment and occupation without sex discrimination*

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

### Thematic Group 2 « Health, social security and social protection » - Conclusions XX-2 (2013)

According to the applicable rules, Conclusions XXI-2 (2017) only refer to the information submitted the Government of the Czech Republic on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

For the most recent Conclusions adopted concerning the relevant Articles, see Conclusions XX-2 (2013).

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

The minimum levels of old-age, unemployment and sickness benefits are manifestly inadequate.

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

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

► *Article 13§1 – Right to social and medical assistance - Adequate assistance for every person in need*

- It has not been established that the level of social assistance is adequate
- Czech legislation allows withdrawal of residence permit to foreign nationals in material need.

► *Article 13§4 – Right to social and medical assistance - Specific emergency assistance for non-residents*

It is not established that emergency social assistance is available to all non-resident foreign nationals of other States Parties, irrespective of their status.

► *Article 4 of the 1988 Additional Protocol – Right of the elderly to social protection*

- The level of the minimum pension is manifestly inadequate
- During the reference period there was no legislation prohibiting discrimination on grounds of age outside of employment.

### Thematic Group 3 « Labour rights » - Conclusions XXI-3 (2018)

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

The daily working hours may be extended up to 16 hours in a number of activities.

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

Agricultural workers may, pursuant to collective agreement or individual contract, postpone weekly rest, resulting in an excessive number of consecutive working days.

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<sup>4</sup> Further information on the situations of non-conformity is available on the [HUDOC database](#).

► *Article 452 - Right to a fair remuneration - Increased remuneration for overtime work*

An increased compensatory time-off for overtime hours is not guaranteed.

► *Article 454 - Right to a fair remuneration - Reasonable notice of termination of employment*

- The two months' notice period provided for dismissals on grounds of long-term incapacity, unsuitability for the post and breach of obligations related to the prescribed regime for temporary incapacity and permitted leave, is not reasonable for employees with more than 10 years of service;
- No notice period is provided for dismissals during the probationary period or in case of termination of employment upon death of the employer if the business is discontinued.

► *Article 5 – Right to organise*

Members of the SIS are prohibited from forming any type of professional association for the protection of their economic interests.

► *Article 652 - Right to bargain collectively – Negotiation procedures*

The promotion of collective bargaining is not sufficient.

► *Article 654 - Right to bargain collectively - Collective action*

- The percentage required for calling a strike in disputes regarding the conclusion of collective agreements is too high;
- There is an absolute prohibition on the right to strike for members of the police, fire and rescue service, prison service and the Office for Foreign Relations and Information.

**Thematic Group 4 « Children, families, migrants » - Conclusions XX-4 (2015)**

► *Article 754 – Right of children and young persons to protection – Working time for young persons under 16*  
The duration of working time for young workers under 16 years of age is excessive.

► *Article 755 –Right of children and young persons to protection – Fair pay*

The minimum wage of young workers is not fair; it has not been established that the apprentices' allowances are adequate (Conclusions XXI-2 (2017)).

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

Housing conditions of Roma families are not adequate; family benefits are not of an adequate level for a significant number of families.

► *Article 17 – Right of mothers and children to social and economic protection*

All forms of corporal punishment are not prohibited in the home and in institutions.

**The Committee has been unable to assess compliance with the following provisions and has requested the Government of the Czech Republic to provide more information in the next report in respect of the following provisions:**

**Thematic Group 1 « Employment, training and equal opportunities »**

- ▶ Article 1§2 - Conclusions XX-1 (2012)
- ▶ Article 15§2 - Conclusions XX-1 (2012)

According to applicable rules, Conclusions XXI-1 (2016) only refer to the information submitted by the Government of the Czech Republic on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

**Thematic Group 2 « Health, social security and social protection »**

- ▶ Article 13§3 - Conclusions XX-2 (2013)
- ▶ Article 14§1 - Conclusions XX-2 (2013)

According to applicable rules, Conclusions XXI-2 (2017) only refer to the information submitted by the Government of the Czech Republic on the follow-up given to the relevant decisions of the European Committee of Social Rights in the framework of the collective complaints procedure (see above).

**Thematic Group 3 « Labour rights »**

- ▶ Article 2§3 - Conclusions XXI-3 (2018)
- ▶ Article 4§3 - Conclusions XX-3 (2018)
- ▶ Article 4§5 - Conclusions XX-3 (2018)

**Thematic Group 4 « Children, families, migrants »**

- ▶ Article 8§2 - Conclusions XXI-2 (2017)
- ▶ Article 8§3 - Conclusions XX-4 (2015)

### **III. Examples of progress achieved in the implementation of rights under the Charter (*non-exhaustive list*)**

#### **Thematic Group 1 « Employment, training and equal opportunities »**

► Adoption of an anti-discrimination legislation on 17 June 2009, which bans discrimination in areas including access to employment, business, education, healthcare and social security on the grounds of sex, age, disability, race, ethnic origin, nationality, sexual orientation, religious affiliation and faith.

#### **Thematic Group 2 « Health, social security and social protection »**

► Adoption of legislation (Act No 89/2012), explicitly prohibiting discrimination on the ground of old age in the area of social security, access to health care and its delivery, access to education and its provision and access to goods and services, including housing, if they are offered to the public.

#### **Thematic Group 3 « Labour rights »**

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#### **Thematic Group 4 « Children, families, migrants »**

► Restrictions on the activities prohibited to protect pregnant and nursing mothers (Order No. 261/1997 replaced by Order No. 288/2003, which lists only the activities prohibited to protect mothers).

► Amendments of the Criminal Code (in force in 2004) introducing protection from acts of domestic violence.

► Measures taken to strengthen the economic protection of the family: tax allowances concerning married couples (tax reform which came into effect in 2005), increase of the number of beneficiaries of the parental allowance for children up to the age of four (reform of the calculation's basis of the allowance).

► Amendment of the Criminal Code, increasing protection of young persons aged between 15 and 18 from sexual acts or other defined acts.

► Entry into force (1/01/2007) of a new Labour Code, which prohibits employment of children of either the age of 15, or older than 15 until completion of their compulsory school attendance. This prohibition applies to any and all types of work in any economic sector, performed within or outside the scope of employment relationships.

► Amendment of the Criminal Code (Article 192, Act No. 40/2009 Coll., in force in January 2010) sanctioning the possession (i.e. any type of holding) of child pornography for one's own purposes with a term of imprisonment from two to six years.

► An amendment to the Penal Code was adopted in 2014, which increases the protection of children against sexual assaults.

► Through an amendment to the School Act, which entered into force on 1 January 2012, conditions have been created for developing and subsidising company childcare facilities;

► Through an amendment to the Trade Act, other forms of childcare facilities have been promoted.

► The Mediation Act entered into force on 1 September 2012.



- ▶ New provisions governing interim measures – such as preliminary proceedings in cases of domestic violence – entered into force on 1 January 2014. The Victims of Crime Act, which entered into force on 1 August 2013, added new provisions to regulate interim measures with a view to protecting the aggrieved party, persons closely related to her, preventing the accused party from committing a crime and ensuring effective implementation of criminal proceedings.
- ▶ The new Article 971(3) of the Civil Code explicitly stipulates that “inadequate housing conditions and material situation of parents of the child cannot per se be a reason for the court’s decision on institutional care.
- ▶ Amendment No. 401/2012 also made significant changes to the Family Act No. 94/1963 (it is now explicitly prohibited for a court to order institutional care of a child solely for inadequate housing conditions or financial situation of his/her parents).
- ▶ Amendment No. 134/2006 of 14 March 2006 of the Act on Social and Legal Protection of Children imposed on the competent public authorities a duty to provide parents, after a removal of children from their care, immediate and comprehensive assistance with a view to effectively reunifying the family.
- ▶ The Labour Code provision which authorised a dismissal notice to be served on an employee on maternity leave in certain cases of relocation of all or part of the business was amended with effect from 1 January 2012 in order to align it with the requirements of the Social Charter. As a result, Section 54 of the Labour Code henceforth explicitly provides for a prohibition of dismissal on the grounds of organisational changes of pregnant employees, employees on maternity leave as well as male employees on parental leave taken within the period during which a woman employee is entitled to be on maternity leave.