



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

## **PRESS BRIEFING ELEMENTS**

**Conclusions 2015**



## **The European Committee of Social Rights' Conclusions 2015: briefing document**

### *A modified reporting procedure*

Following the changes to the reporting procedure adopted by the Committee of Ministers at the 1196<sup>th</sup> meeting of the Ministers' Deputies on 2-3 April 2014 there are henceforth three types of reports. Firstly, the ordinary reports on a thematic group of Charter provisions, secondly simplified reports every two years on follow-up to collective complaints for States bound by the collective complaints procedure and, thirdly, reports on conclusions of non-conformity for lack of information adopted by the Committee the preceding year.

### *Rights examined in 2015*

On this basis, the European Committee of Social Rights in 2015 examined reports submitted by 31 States Parties on the articles of the Charter relating to children, families and migrants: the right of children and young persons to protection (Article 7), the right of employed women to protection of maternity (Article 8), the right of the family to social, legal and economic protection (Article 16), the right of children and young persons to social, legal 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 opportunity and treatment (Article 27) and the right to housing (Article 31). The reports covered the reference period 2010-2013.

In addition, the Committee examined reports from certain States on conclusions of non-conformity for repeated lack of information in Conclusions 2013 (rights pertaining to health, social security and social protection).

Finally, the Committee examined reports from 8 States Parties<sup>1</sup> on the follow-up undertaken by these States in cases where the Committee had found breaches of the Charter following complaints lodged by different organisations under the collective complaints procedure. The follow-up to a total of 40 decisions on the merits was examined concerning a wide variety of Charter rights.

### *Comments from civil society*

For its examination of the state reports, the Committee also had at its disposal comments on the reports submitted by different trade unions, national human rights institutions and non-governmental organisations. These comments were often crucial in gaining a proper understanding of the national situations concerned.

### *The outcome: key figures*

At its session in December 2015, the Committee adopted 762 conclusions on children, families in respect of the 31 States,<sup>2</sup> including some 239 findings of violations of the

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<sup>1</sup> In respect of one State Party (Ireland) there were no decisions on the merits which required follow-up.

<sup>2</sup> Four States Parties (Albania, Croatia, Iceland and Luxembourg) did not submit their reports in time and conclusions were therefore not adopted in respect of these States.

Charter (31%). There were 432 conclusions of conformity (57%), whereas the number of “deferrals” (cases where the Committee was unable to assess the situation due to lack of information) amounted to 91 cases (12%).

In respect of situations of non-conformity for repeated lack of information in Conclusions 2013 the Committee adopted 62 conclusions. In 20 of these, the Committee concluded that the situation had been brought into conformity, in 38 it reiterated the finding of violation (either due to a continued lack of information or on substantive grounds) and in 4 cases the Committee deferred its conclusion.

As regards follow-up to collective complaints the Committee examined the follow-up to a total of 125 violations arising from the 40 decisions on the merits under consideration. In only 13 of these (10.4%) the Committee found that the violation had been remedied by appropriate follow-up.

The Committee also adopted several *statements of interpretation* (10 in total) setting out in general norm sentences the Charter’s requirements under certain provisions or in respect of certain issues. In 2015, statements were adopted *inter alia* on the rights of refugees, on the notion of light work for children, on the rights of posted workers on language tests and housing requirements in the context of family reunion, on expulsions in case of threat to national security, or offence against public interest or morality and on remuneration during parental leave.

### *Main findings*

- Problems identified

The Committee’s conclusions identify several generalised problems in the application of the Charter that affect many States Parties while varying in scope and severity and impacting on them differently.

One such problem concerns the continued existence of child labour in Europe, whether due to lax or imprecise rules on the types of (light) work that children can be engaged in or, more frequently, due to inadequate monitoring of child labour in practice.

Another recurrent problem concerns remuneration of young workers and apprentices and the inclusion of time spent on training in working time and remunerating it as such. While the integration of young people in the labour market is of crucial importance at a time when youth unemployment rates are alarmingly high in many European countries, the Committee’s conclusions are a warning not to abandon principles of fairness and to avoid exploitation of young workers and apprentices.

Access to and the quality and quantity of social services and benefits targeted at children and families such as child care, family benefits, assistance for vulnerable children, education and housing allowances are far from satisfactory in many countries. Respect for the basic rights of children and families is essential to achieving cohesive societies and combating poverty.

The rights of foreign populations in the States Parties remain a very problematic issue, which has been accentuated further by restrictive measures taken in many countries in the face of the migratory movements of recent years, often in flagrant violation of the Charter's requirements. Discrimination of foreigners in the allocation of family benefits is a widespread problem, migrant workers face discrimination in the labour market (employment conditions, trade union rights, procedural *lacunae*, etc.), sometimes in law and often in practice. The right to family reunion poses particularly thorny issues with many countries imposing excessive conditions for the exercise of this right, such as length of residence requirements, onerous language and integration tests, excessive means requirements and so on.

The Committee upheld its long-standing case law on the rights of foreigners while introducing certain clarifications with the result being a relatively large number of findings of violations. The Committee also, in a direct response to the current refugee crisis, adopted a statement on the rights of refugees and asylum seekers under the Charter.

As noted above, the Committee also examined certain situations where States had previously (in Conclusions 2013) been held to be in breach of the Charter due to lack of information in respect of provisions pertaining to health, social security and social protection. These situations are essentially about the failure of the States concerned to comply with their reporting obligation under the Charter and the aim of this new exercise is to immediately give States an opportunity to remedy the lack of information which may or may not hide substantive problems of non-conformity. The results were mixed: in some cases the new information provided by States did allow the Committee to reach a conclusion on substantive grounds, but in many others the information was still not adequate or pertinent or even entirely absent leaving the Committee with no other choice but to reiterate the conclusion of non-conformity for lack of information.

- Positive developments

Despite the difficult context, notably economic but also political, from which social rights have suffered in recent years, the Committee's conclusions also reflect certain positive developments that have taken place during the period under consideration. In a number of cases violations previously identified have been remedied, in others steps have been taken to bring situations into conformity, while not yet fully remedying the problem and in still others measures were taken to consolidate or improve an already satisfactory situation.

The Committee generally found that the right of workers with family responsibilities to equal opportunity and treatment was satisfactorily guaranteed in most countries, the legal and social protection of families was also evaluated positively (while problems remain concerning economic protection of families). Progress has been made in protecting children against ill-treatment (the number of countries prohibiting all forms of corporal punishment of children is increasing), significant efforts were made in many States to combat trafficking and language teaching for migrant workers and their families is generally provided in a satisfactory manner.

## **Appendix I: Summary of main findings article-by-article**

### **The right of children to protection (Article 7)**

Article 7 of the Charter guarantees the right of children and young persons to protection. It prohibits child labour (below 15 years of age) and employment of children in dangerous and unhealthy activities. It also guarantees special protection against physical and moral dangers, such as sexual exploitation.

In comparative terms, child labour may not be a major problem in most Council of Europe member states, but the Committee nevertheless found that so-called 'light work' that can be performed by children under the age of 15 or by children who are still in compulsory education, is not adequately regulated in many States. Firstly, some States (Cyprus, Estonia, Lithuania) authorise excessively long hours of light work during school holidays, i.e. more than 6 hours a day or 30 hours a week. The Committee considers that because of its excessive duration, the work performed by children ceases to be 'light' in nature and therefore, represents a violation of the Charter. Secondly, the legislation of certain States does not define the notion of light work with sufficient precision (Hungary, Republic of Moldova, Armenia, Ukraine).

Article 7 also guarantees the right of young workers and apprentices to a fair wage (or an appropriate allowance as the case may be). The fairness of the wage of a young worker is determined with reference to the adult starting wage and/or the statutory minimum wage for adults (where applicable), and the difference must not exceed 20%.

The Committee found that a significant number of States (e.g. Spain, the Czech Republic, Andorra, the Netherlands, the Slovak Republic, Romania, the United Kingdom and Ukraine) did not comply with this fairness criterion with young workers' wages falling too far below the level of adult wages.

As regards protection against physical and moral dangers, the Committee observed that in some States the legislation does not fully protect all children against all forms of sexual exploitation. In Estonia children between 14 and 18 years of age are not protected against all forms of child pornography, whereas in Ukraine child prostitution is only criminalised until the age of 16 and simple possession of child pornography is not a criminal offence. The majority of States have taken significant measures to address the problem of trafficking of children.

### **The right to maternity protection (Article 8)**

While the great majority of national situations were found to comply with the provisions of Article 8, the Committee considered that this was not the case in 24 situations.

Under Article 8§1, the Committee assessed in particular that employed women be entitled, in law and in practice, to at least 6-weeks post-natal paid leave. A statement of interpretation was adopted, which clarified that the amount of maternity benefits should be at least equivalent to the poverty threshold level [and that, if qualifying periods are required for entitlement to maternity benefits, they should allow for some interruptions in the employment record]. The 7 findings of non-conformity (23%), concerning

Azerbaijan, Bosnia and Herzegovina, Moldova, Slovak Republic, Turkey, Ukraine and the United Kingdom, related mainly to shortcomings in respect of maternity benefits.

The Committee also found that in almost a third (30%) of the situations examined the dismissal of pregnant employees and employees on maternity leave was allowed in circumstances which went beyond those allowed by Article 8§2 of the Charter (Latvia, Lithuania, Slovak Republic) or that the employee concerned could not get adequate redress or compensation in case of unlawful dismissal, particularly when no reinstatement is possible (Bosnia and Herzegovina, Czech Republic, Romania, “the former Yugoslav Republic of Macedonia”).

As regards the right to paid nursing breaks (Article 8§3), and the protection of employees who are pregnant, have recently given birth or are nursing their child in respect of night-work (Article 8§4) as well as in respect of dangerous, unhealthy or arduous work (Article 8§5), the few findings of non-conformity related mainly to insufficient evidence of an adequate specific protection of the women concerned in the relevant legislation (Slovenia was not in conformity with Article 8§3 during the reference period; Armenia, Bosnia and Herzegovina and Poland were not in conformity with Article 8§4; Azerbaijan, Bosnia and Herzegovina, Georgia and Ukraine were not in conformity with Article 8§5).

### **The right of the family to social, legal and economic protection (Article 16)**

Article 16 guarantees the right of the family to social, legal and economic protection. Under this provision, the Committee examines housing for families, children facilities, family counselling services, participation of associations representing families, rights and obligations of spouses, mediation services, domestic violence against women, family benefits, vulnerable families and the equal treatment of foreign nationals and stateless persons with regard to family benefits.

Among the recurring grounds of non-conformity under Article 16 (26 conclusions of non-conformity in total or 89%) the most frequent were the lack of a guarantee of equal treatment of nationals of other States Parties with respect to the payment of family benefits (Denmark, the Netherlands in respect of Aruba, the Netherlands in respect of Curaçao, Austria, Azerbaijan, Bosnia and Herzegovina, Hungary, Latvia, Lithuania, Republic of Moldova, Norway, Slovak Republic, Serbia, Ukraine, the “former Yugoslav Republic of Macedonia”) in particular in the form of excessive length of residence requirements, and the inadequate level of family benefits for a significant number of families (Spain, Poland, Czech Republic, United Kingdom, Bosnia and Herzegovina, Estonia, the Russian Federation).

Other violations identified under this provision include housing conditions of Roma (Czech Republic, United Kingdom, Hungary, Slovak Republic, Romania), insufficient measures to combat domestic violence (the Netherlands in respect of Aruba, Republic of Moldova, the Netherlands, Ukraine) and the lack of adequate legal protection for persons threatened by eviction (the Netherlands in respect of Aruba, Estonia, Hungary, Romania).

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

Article 17 guarantees the right of children and young persons to legal, social and economic protection

The Committee has found that prohibition of all forms corporal punishment, which is at the heart of this provision of the Charter, has yet to be achieved in several States, especially in the home (Armenia, Bosnia and Herzegovina, the Slovak Republic, Slovenia) but also in schools (Lithuania) or childcare institutions (the Russian Federation, Lithuania).

In some States, like the Czech Republic, according to the legislation, bodily harm needs to attain a specific threshold of gravity for it to amount to corporal punishment. In the United Kingdom the legislation on physical punishment is based on the concept of 'reasonable chastisement' which allows parents to administer mild forms of punishment. Section 232 of Law No. 5237 of Turkey gives authorisation of discipline to persons who raise, educate, look after or protect children, which often amounts to allowing mild forms of corporal punishment.

The Committee has reiterated its position that the prohibition of any form of corporal punishment of children is an important measure that avoids discussions and concerns as to where the borderline is to be drawn between what might be acceptable forms of corporal punishment and what might not. Therefore, the Committee considered that the Czech Republic, the United Kingdom and Turkey violate Article 17 of the Charter.

On a positive note, the Committee has found that the new Child Protection Act of Estonia explicitly prohibits all forms of corporal punishment and thus brings the situation into conformity with the Charter. Likewise, in Cyprus the Childcare Law was amended in 2013 to prohibit all forms of corporal punishment.

Article 17 also guarantees the rights of children in public care. The Committee has noted that in the majority of States the procedures for placement of children in care are well established and observed. Removal of children from their families due to financial difficulties is still possible in the Republic of Moldova but no longer possible in the Czech Republic where the new Article 971(3) of the Civil Code explicitly stipulates that inadequate housing conditions and the material situation of parents of the child cannot *per se* be a reason for placement of children.

The Committee also observed that some States (e.g. Republic of Moldova, Hungary and Armenia) have taken steps to de-institutionalise public care by closing down large institutions and favouring placement of children in foster care or other family-type environment.

As regards young offenders, an age of criminal responsibility which is manifestly too low (10 years of age) is still applied in the United Kingdom. Some States still make it possible to detain young offenders pending trial for long periods of time (up to two years in Poland, Hungary and the Slovak Republic). However, on a positive note, the Committee observed that the majority of States guarantee the statutory right to education for young offenders in detention facilities.



Under Article 17 the States Parties have positive obligations to ensure equal access to education for all children, with particular attention to be paid to vulnerable groups. While in the majority of the States an effective and accessible system of education is in place, some States (Republic of Moldova, Armenia) still have low enrolment rates in compulsory education, whereas in others (Republic of Moldova) measures taken to ensure that Roma children complete compulsory education are not sufficient, Roma children are still subject to segregation in the education field (Hungary) or are disproportionately represented in special classes (the Slovak Republic). Turkey does not grant irregularly present children an effective right to education, which is also required by Article 17 of the Charter.

### **The rights of migrant workers (Article 19)**

The respect of the rights of migrant workers was found to be particularly problematic, with about a third (29%) of the national situations not being in conformity with one or more of the provisions of Article 19.

In particular, in more than half (56%) of the situations examined the Committee found breaches of the migrant workers' right to equal treatment in respect of employment, trade union membership and accommodation (non-conformity with Article 19§4 in Armenia, Cyprus, Georgia, the Netherlands, Norway, Slovenia, Sweden, Turkey and Germany).

The rate of non-conformity findings rose to 72% (13 conclusions out of 18, namely Armenia, Austria, Cyprus, Estonia, Georgia, Latvia, the Netherlands, Serbia, "the former Yugoslav Republic of Macedonia", Turkey, Germany, Spain and the United Kingdom) as regards infringements on the right to family reunion (Article 19§6) on a variety of grounds. Apart from obstacles to family reunion related to excessive residence (Cyprus, Estonia, Germany, Turkey), language (Austria, Germany, United Kingdom) or income requirements (Spain, United Kingdom), the Committee noted that in many cases (7 situations, namely Cyprus, Latvia, the Netherlands, Serbia, "the former Yugoslav Republic of Macedonia", Turkey, United Kingdom), the expulsion of a migrant worker could entail the expulsion of his/her family members, without assessing their own personal circumstances, a situation all the more problematic when considering that in 6 out of 16 States (38%) the Committee found that the expulsion of migrant workers themselves did not comply with Article 19§8 of the Charter, mostly because the grounds for expulsion went beyond those permitted by the Charter (Armenia, Moldova, Serbia, Slovenia, Turkey, Germany).

In addition to the conclusions state-by-state, the Committee also adopted several statements of interpretation clarifying and/or developing the meaning and scope of Article 19. Thus, in respect of Article 19§4 the Committee, referring to its case-law (Swedish Trade Union Confederation (LO) and Swedish Confederation of Professional Employees (TCO) v Sweden, Complaint No. 85/2012, decision on the merits of 3 July 2013), stated that any restrictions on the right to equal treatment for posted workers, which are imposed due to the nature of their sojourn, must be objectively justified by reference to the specific situations and status of posted workers, having regard to the principles of Article G of the Charter.

With respect to Article 19§6 the Committee indicated that requirements that family members pass language and/or integration tests or complete compulsory courses are contrary to Article 19§6 of the Charter where they have the potential effect of denying entry or the right to remain to family members of a migrant worker, or otherwise deprive the right guaranteed under Article 19§6 of its substance, for example by imposing prohibitive fees, or by failing to consider specific individual circumstances such as age, level of education or family or work commitments.

Still concerning Article 19§6, the Committee recalled that restrictions on family reunion which take the form of requirements for sufficient or suitable accommodation to house family members should not be so restrictive as to prevent any family reunion and should therefore allow for exemptions to be made in respect of specific cases, or for consideration of individual circumstances.

Moreover, the Committee considered that restrictions on the exercise of the right to family reunion should be subject to an effective mechanism of appeal or review, which provides an opportunity for consideration of the individual merits of the case consistent with the principles of proportionality and reasonableness.

Finally, with respect to Article 19§8 the Committee pointed out that expulsions on grounds of national security, public interest or morality can only be in conformity with the Charter if they are ordered by a court or a judicial authority, or an administrative body whose decisions are subject to judicial review. Any such expulsion should only be ordered in situations where the individual concerned has been convicted of a serious criminal offence, or has been involved in activities which constitute a substantive threat to national security, the public interest or public morality. Such expulsion orders must be proportionate, taking into account 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.

The individual's connection or ties with both the host state and the state of origin, as well as the strength of any family relationships that he/she may have formed during this period, must also be considered to determine whether expulsion is proportionate. All migrants served with expulsion orders must have also a right of appeal to a court or other independent body.

### **The right of workers with family responsibilities to equal opportunity and treatment (Article 27)**

Article 27 guarantees the right of workers with family responsibilities to equal opportunities and treatment. National legislation should entitle men and women to an individual right to parental leave, which should be provided to each parent and at least some part of it should be non-transferable. In its conclusions the Committee found that in the majority of States having accepted this provision of the Charter both parents enjoy a right to parental leave.

One of the key features of Article 27 is that States shall ensure that an employed parent is adequately compensated for his/her loss of earnings during the period of parental leave. The Committee found that in Turkey no compensation or remuneration is paid for parental leave, which is contrary to the Charter.

Article 27 also requires the prohibition of dismissal on the ground of family responsibilities and the existence of effective remedies in case of unlawful dismissal. The Committee has observed that dismissal on grounds of family responsibilities is prohibited in all States having accepted this provision. However, as concerns the available remedies, in some national situations (e.g. Armenia and Turkey) the Committee did not find it established that adequate compensation both for pecuniary and non-pecuniary damage is guaranteed.

### **The right to housing (Article 31)**

Article 31 guarantees the right to housing. While Article 31 cannot be interpreted as imposing on States an obligation of “results” it notably obliges them to adopt the necessary legal, financial and operational means of ensuring steady progress, measurable and within reasonable time, in the realization of this right.

The Committee’s conclusions reflect a relatively low degree of compliance with the provisions of Article 31 with an overall total of 14 conclusions of non-conformity or 63%.

Under Article 31§1, which guarantees the right to adequate housing, the most common grounds of non-conformity concerned the lack of measures taken by public authorities to improve the substandard housing conditions of Roma (Lithuania, the Netherlands, Slovenia, Ukraine) and lack of sufficient supervision for adequate housing (Slovenia, Turkey, Ukraine).

As regards Article 31§2 (reduction of homelessness) the Committee adopted a statement of interpretation, which stresses that eviction from shelters without the provision of alternative accommodation is prohibited. The most common grounds of non-conformity were lack of adequate legal protection for persons threatened by eviction (Andorra, Lithuania, Slovenia) and the absence in law of a prohibition of eviction from emergency accommodation/shelters without the provision of alternative accommodation (Andorra, the Netherlands, Slovenia, Sweden).

Finally, under Article 31§3 on affordable housing, the Committee considered that the average waiting period for allocation of social housing was too long and that the remedies were inadequate in some States (Slovenia, Turkey) and also in one case that nationals of other States Parties lawfully residing or working regularly were not entitled to equal treatment regarding eligibility for social housing (Slovenia).

## **Appendix II: Examples of progress**

### *1961 Charter*

#### **Czech Republic**

##### *Article 7§10*

Amendment to the Penal Code adopted in 2014 which increases the protection of children against sexual assaults.

##### *Article 8§2*

Article 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.

##### *Article 16*

- Amendment to the School Act, which entered into force on 1 January 2012, conditions have been created for developing and subsidising company childcare facilities.
- Amendment to the Trade Act other forms of childcare facilities have been promoted.
- The Mediation Act entered into effect on 1 September 2012.
- On 1 January 2014, such as preliminary proceedings in cases of domestic violence.
- 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.

##### *Article 17§1*

- 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.
- Amendment No. 134/2006 of 14 March 2006

#### **Germany**

##### *Article 16*

- The Bavarian legislator introduced a new Act which entered into force on 30 August 2012. The new Act provides for an entitlement to Land child-raising allowance of parents of foreign origin without the characteristic of "nationality" being taken into account.
- On 25 September 2012 the Council of Ministers of the Land of Baden-Württemberg decided to end the eligibility for state child-raising allowance for all children born on or after 1 October 2012.

##### *Article 17§1*

- The Law governing the expansion of assistance for pregnant women and the regulation of anonymous childbirth, which came into force on 1 May 2014, reinforces

the rights of the child. The fundamental right of the child to know his or her origins is guaranteed in that he or she is able to inspect the mother's data and obtain information on her name, address and date of birth.

- In 2011, a law was passed with retrospective effect to 29 May 2009, whereby children born in and out of wedlock are treated equally in cases of inheritance.

## **Poland**

### *Article 7§10*

Amendments to the Criminal Code of (2012) by which the new Article 202§4 b stipulates that persons who produce, distribute, present, store or possess content showing pornographic image of minors (under the age of 18) shall be subject to a fine, or imprisonment of up to 2 years.

### *Article 8§1*

A Law of 28 May 2013 amended the provisions on maternity leave, in particular by introducing parental leave.

### *Article 19§2*

New Law on Foreigners 2013, including streamlining of the process for applying for residence permits, and the transposition of Directive 2011/98/EU concerning third-country nationals into Polish law.

### *Article 19§6*

Section 186 of the Law on Foreigners 2013, which entered into force after the reference period, expressly provides that the right to family reunion shall be granted in accordance with the Charter.

## **Spain**

### *Article 7§7*

Section 38§3 of the Workers' Statute was amended through the Royal Decree-Law No. 3/2012. Under the new provision, if the holiday period coincides with a temporary incapacity resulting from pregnancy, childbirth or breastfeeding that prevents the worker from enjoying it fully or partially during the calendar year to which the holiday relates, the worker may take the holiday once the incapacity is over and provided that not more than eighteen months have passed from the end of the year in which the holiday was accrued.

### *Article 8§3*

Section 6 of Royal Decree No. 1621/2011 has extended to domestic workers the right provided under Section 37 of the Workers' Statute.

## *Charter*

### **Andorra**

#### *Article 7§10*

Prohibition of simple possession of pornographic material was introduced by amendment to the Penal Code (Act 15/2008 of 3 October 2008, entered into force on 28 October 2008), whereby Article 155.3 provides that whoever possesses pornographic material in which the images of a minor appear (real minors or persons having the appearance of minors), shall be sentenced to a term of imprisonment.

### **Armenia**

#### *Article 7§1*

The Labour Code as amended by Law No HO-117-N of 24 June 2010, in its Article 17 (2(1)) states that persons between the ages of 14 and 16 may be involved only in temporary works not causing damage to health, safety, education and morality.

#### *Article 7§7*

Article 170 of the Labour Code has been amended by Law No. HO-117-N of 24 June 2010 and it now provides that "the replacement (giving-up) of annual holiday for financial compensation was not allowed, with the only exception of the situation when the employment contract is terminated.

#### *Article 8§3*

Article 258(3) of the Labour Code, governing nursing breaks, was amended in 2010 (Law No. HO-117-N of 24 June 2010) and now applies to all employees.

#### *Article 17§2*

Amendments to the Law "On general education" were introduced in 2012, which provide for inclusive education for children with special needs.

#### *Article 19§4*

In December 2013, a new Law "On employment" was adopted. The new law introduces major new programmes which were not contained in the previous legal regulations. Programmes envisaged by the new Law include the organisation of vocational training, assistance in changing employment and the organisation of employment experience for persons with no professional work experience.

### **Austria**

#### *Article 16*

Under the Act to Reform the Law of Parent and Child and Name Law 2013, the courts can entrust parents with joint custody even against one of the parents' will, where it is ruled that this would be more in the interest of the child's well-being than if one parent were to have sole custody.

## **Bosnia and Herzegovina**

### *Article 8§1*

In accordance with a Council of Minister's decision, as of 29 September 2010 all employees of the Bosnia and Herzegovina State Institutions, regardless of their place of residence, are entitled to maternity benefits in the amount of the average net salary earned in the last three months before the maternity leave.

Section 45 of the Brčko District Labour Act was amended on 23 August 2014 and a new Decision on the Conditions and Manners of Payment of Compensation of Salary during Maternity Leave (No. 34-000890/13 of 15 January 2014) entered into force on 22 January 2014.

## **Cyprus**

### *Article 7§10*

New legislation, L. 91(I)/2014 , which revises the legal framework for the prevention and combating sexual abuse and sexual exploitation of children and child pornography was adopted. It provides for a holistic approach to combating sexual offences committed against children and also addresses specifically offences committed online.

Clause 6 of Section 54 of the Children Law that made reference to corporal punishment has been repealed (Government Gazette 21/6/2013).

### *Article 8§1*

The Maternity Protection Legislation (L. 100(I)/1997) was amended in 2011 to enhance the protection given to pregnant workers. Pregnant workers are entitled to a maternity leave of 18 weeks in total, including 2 weeks compulsory leave before the expected birth and 9 weeks compulsory leave after the birth, upon presentation of a medical certificate stating the estimated date of delivery. Additional maternity leave is provided for in certain cases. All pregnant workers are entitled to a maternity leave, regardless of the time for which they have been working for a specific employer. The report confirms that there is no distinction between women employed in the public sector and those employed in the private sector.

## **Estonia**

### *Article 7§10*

The new Child Protection Act of 2014 (in force between 23/12/2013 and 31/12/2015) provides in its Section 178 (Manufacture of works involving child pornography or making child pornography available) that manufacture, acquisition or storing, handing over, displaying or making available to another person in any other manner of pictures, writings or other works or reproductions of works depicting a person of less than 18 years of age in a pornographic situation, or a person of less than 14 years of age in a pornographic or erotic situation, is punishable by a pecuniary punishment or up to three years' imprisonment.

## **Georgia**

### *Article 27§2*

According to Article 27 of the Labour Code, as amended by Organic Law of Georgia No.1393/ 2013, an employee (at her request) shall be granted maternity and child care leave of absence of 730 calendar days. 183 calendar days of maternity and child care leave of absence shall be paid. 200 calendar days shall be paid in the event of pregnancy complication or multiple births.

## **Hungary**

### *Article 16*

The Criminal Code, that entered into force on 1 July 2013, introduced the crime of "domestic violence".

### *Article 17§1*

Pursuant to the legal provisions on asylum and child protection in effect from 1 May 2011, unaccompanied minors requesting their recognition shall be placed in child protection institutes under the legal regulations on child protection. As a result, the scope of the Child Protection Act extends to unaccompanied minors requesting their recognition as well as children with an admitted status and children recognised as refugees or protected by the Hungarian authorities.

## **Lithuania**

### *Article 16*

Adoption on 26 May 2011 of the Law on Protection against Domestic Violence, which defines the concept of domestic violence, establishes the rights and liabilities of subjects of domestic violence, implements preventive and protective measures and provides for assistance in the event of domestic violence.

## **Malta**

### *Article 7§8*

Since 2012 employers are obliged to conduct a risk assessment in accordance with the requirements of the General Provisions for Health and Safety at Work Regulations 2003, prior to assigning a worker to night work.

### *Article 8§1*

Pregnant employees are entitled to an uninterrupted period of fully paid maternity leave of 14 weeks (increased to 18 weeks as from 1 January 2013)

### *Article 8§4*

Following amendments in 2011 to Regulation 5 of the Protection of Maternity (Employment) a special allowance equivalent to the rate of sickness benefit is paid for the whole period necessary for the protection of the employee's health and safety.



*Article 8§5*

The Protection of Maternity (Employment) Regulations (Legal Notice 439/2003) were amended in 2012 to the effect that employers are now obliged to conduct a risk assessment in accordance with the requirements of the General Provisions for Health and Safety at Work Regulations 2003 (Legal Notice 36/2003).

*Article 16*

The entry into force of the Domestic Violence Act in 2013, which establishes a commission on domestic violence. The functions of this commission is to advise the Minister responsible for social policy on the issue of domestic violence.

*Article 17§1*

Article 712 *et seq.* of the Civil Code has been amended so that children of second (or subsequent) marriages or children who were adopted are not discriminated against. Corporal punishment is unlawful in the home under a 2014 amendment to the Criminal Code. Corporal punishment is unlawful in alternative care settings under article 339 of the Criminal Code, as amended by the Criminal Code (Amendment No. 3) Act 2014. Corporal punishment is unlawful in schools under Article 339 of the Criminal Code as amended in 2014.

The age of criminal responsibility has been raised to the age of 14. The relevant provisions of the law have been changed (Article 35 of the Criminal Code) and now a child under the age of 14 shall be exempt from criminal responsibility for any act or omission. Hence the Article in the Criminal Code relating to mischievous discretion between the ages of 9 to 14 has been removed.

**Republic of Moldova**

*Article 7§2*

List of dangerous activities prohibited to young workers under 18, established by the Government Decision No. 541 of 7 July 2014

*Article 7§10*

The Criminal Code, the Code of Criminal Procedure and the Family Code have been amended in 2012.

- Article 206 (1) of the Criminal Code criminalises the recruitment, transportation, transfer, harbouring, or receipt of a child, as well as giving or receiving payments or benefits to obtain the consent of the person who exerts control over the child for the purpose of commercial or non-commercial sexual exploitation in prostitution or a pornographic industry;
- Article 208 (2) of the Criminal Code criminalises taking advantage, against any material benefits, of sexual services provided by a person who is known with certainty not to have reached the age;
- Article 208<sup>1</sup> of the Criminal Code defines and criminalises child pornography as production, distribution, broadcasting, import, export, offering, sale, exchange, use, or holding of pictures or of other images of one or more children involved in explicit, real, or simulated sexual activities;

- Article 175 of the Criminal Code criminalises the proposal, including through information and communication technologies, to a meeting with a child for the purpose of committing an offence against him of a sexual nature.

*Article 16*

Adoption on 17 July 2014 of the Housing Act.

*Article 19§8*

Section 54 of Law No. 200/2010 on Foreigners provides for an appeal against decisions to return a migrant to their own country.

## **Montenegro**

*Article 8§5*

New Law on Safety and Health Protection at Work was adopted in 2014.

## **Norway**

*Article 17§1*

Regulation No. 1255 of 2011 relating to the right to health and care services for people without permanent residence: children who are unlawfully present have the same rights to health and care services as children who live in Norway.

## **Russian Federation**

*Article 17§1*

The Decree of the Government on the activities of establishments for orphans and children deprived of parental care was adopted on 24 May 2014. Paragraph 35 of the Decree provides that the number of children in one unit should not exceed 8 persons.

## **Serbia**

*Article 8§2*

In 2013, the Labour Code was amended with a view to extending the protection to women on a fixed-term employment contract (Law on Amendments to the Labour Code of 8 April 2013).

*Article 19§1*

A new Employment of Foreign Nationals Act was adopted in November 2014, enabling free access to the Serbian labour market for EU Member State citizens.

## **Slovenia**

*Article 8§2*

The Employment Relationships Act (ZDR-1), as amended in 2013, prohibits the employer from terminating the worker's employment contract during her pregnancy or when she is

breastfeeding a child of up to one year of age, nor may the employer terminate the employment contract of a worker who is on an uninterrupted parental leave, taken in the form of full-time absence from work, and for one month after the end of such leave.

*Article 8§3*

Paid nursing breaks have been introduced by the new Parental Protection and Family Benefits Act (ZSDP-1), that entered into force in April 2014 and has been applicable since 1 September 2014.

**“the former Yugoslav Republic of Macedonia”**

*Article 8§5*

Section 162 of the Labour Relations Act, as amended in 2013 (Official Gazette No. 13/13), provides that pregnant women and mothers until one year after the birth should not perform any work which would expose them to increased risks for their health or their child's health.

*Article 17§1*

Entry into force of the Child Protection Act of 12 February 2013: corporal punishment is prohibited in alternative care settings (foster care, institutions, places of safety, emergency care, etc.) under Section 12.

**Turkey**

*Article 7§2*

A new Law on Occupational Health and Safety No. 6331 of 30 June 2012 was adopted.

The amendments introduced by Regulation No. 28566/21.02.2013 to the Regulation No. 25425 on the “Employment Procedures and Principles on Children and Young Workers”, workers who have not turned 18 can not be employed in work which involve dangerous and unhealthy tasks such as: production and wholesale of alcohol, cigarettes and addictive substances; the production and wholesale of combustible, explosive, harmful and dangerous substances and their processing, storing and all sorts of work which involves exposure to such substances; work in excessive hot and cold environment.

*Article 8§4*

Under Section 8 of the Regulation on employment of female employees at night-work of 24 July 2013 (Official Gazette No. 28717), female employees cannot perform night work during their pregnancy, upon presentation of a medical certificate.

**Ukraine**

*Article 7§6*

The Law on Professional Development of Employees of 21 January 2012, which provides rules for organising employees' professional training, was adopted.

*Article 17§1*

The Law of 15 March 2012 on amendments to the Family Code has amended Article 22 of the Family Code and set the equal minimum legal age of marriage at 18 for both genders.