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EUROPEAN SOCIAL CHARTER

16th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF SWEDEN

Follow-up to collective complaints 85/2012 and 12/2002

Report registered by the Secretariat on
27 October 2016

CYCLE 2017

REVISED EUROPEAN SOCIAL CHARTER

16th National Report on the implementation of
the Revised European Social Charter
submitted by

THE GOVERNMENT OF SWEDEN

- Follow up of Collective Complaints 85/2012 and 12/2002

Sixteenth report

submitted by the Government of Sweden

in accordance with Part IV, Article 21 of the Revised European Social Charter on the measures taken to give effect to the following provisions of the Revised European Social Charter

with reference to letter of 31 March 2016 from the Council of Europe to Sweden asking for a simplified report containing the following

I. information on the follow-up given to the decisions of the European Committee of Social Rights relating to the collective complaints:

- Swedish Trade Union Confederation (LO) and Swedish Confederation of Professional Employees (TCO) v. Sweden, Complaint No. 85/2012, decision on the merits of 03/07/2013, violation of Articles 6§2, 6§4, 19§4a and 19§4b,
- Confederation of Swedish Enterprise v. Sweden, Complaint No. 12/2002, decision on the merits of 22/05/2003, violation of Article 5.

II. For the accepted provisions concerning thematic group “Labour rights”: articles 2, 4, 5, 6, 21, 22, 26, 28 and 29: the information required by the European Committee of Social Rights in the event of non-conformity for lack of information (Conclusions XX-3(2014)):

- No information required

In accordance with Part IV, Article 23 of the Revised European Social Charter, copies of this report have been communicated to

- (1) Svenskt Näringsliv (Confederation of Swedish Enterprise)
- (2) Sveriges Kommuner och Landsting (the Swedish Association of Local Authorities and Regions)
- (3) Arbetsgivarverket (Swedish Agency for Government Employers)
- (4) Landsorganisationen i Sverige (the Swedish Trade Union Confederation)
- (5) Tjänstemännens Centralorganisation (the Swedish Confederation of Professional Employees)
- (6) SACO, Sveriges Akademikers Centralorganisation (the Swedish Confederation of Professional Organisations)

Table of Contents

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Confederation of the Swedish Enterprise v. Sweden, Complaint No. 12/2002, decision on the merits of 22/05/2003, violation of Article 5 [7](#)

Follow up of Collective Complaint No. 85/2012

With reference to the resolution of the Committee of Ministers, adopted 5 February 2014, finalizing the complaint procedure and with regard to previous information provided in national reports, particularly the 15th National Report, and in the collective complaint no 85/2012 the Government would like to add the following.

Inquiries regarding posting of workers

The Government has previously submitted information on the proposals of the Parliamentary Committee of Inquiry regarding posting of workers, which were presented on 30 September 2015. As regards posting of workers, another inquiry has further presented proposals on 27 February 2015 and on 31 March 2015 regarding how to implement the so called Enforcement Directive¹ into Swedish law. The Government is currently considering these proposals. The Government has announced that it will propose a bill about new regulations regarding posting of workers in January 2017. The Government will in due course submit further information on this matter.

In the proposed Budget Bill for 2017, the Government has declared that Swedish wages and conditions shall apply to all persons working in Sweden and that legislation must be designed so as to promote the application of terms agreed by the social partners in collective agreements. Against this background, the Government is working on reviewing and strengthening the Foreign Posting of Employees Act and implementing the Enforcement Directive.

Specificly on EU legislation governing posting of workers, priorities of the Government

The Government's priority is to achieve the principle of equal pay for equal work according to laws and collective agreements, in the country where the posted worker temporarily performs work, while respecting the right of free movement. This was reiterated in both the Budget Bill for 2017, as well as by the Swedish Prime Minister in the Statement of Government Policy in September 2017.

¹ Directive 2014/67/EU of the European Parliament and of the Council on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (the IMI Regulation).

The Government supports the Commission's proposal on a revision of the Posting of Workers Directive and welcomes the Commission's approach to create a more equal treatment between posted and domestic workers, while respecting the free movement of services.

An amendment of the Posting of Workers Directive could enable a more substantial revision of the Foreign Posting of Employees Act.

Taken into consideration the Government's priorities and on-going work, the Government will in due time continue to present relevant information connected to the follow-up of the collective complaint no 85/2012.

Follow up of Collective Complaint No. 12/2002

With reference to information on Article 5 of the Revised European Social Charter (herein after referred to as “the Charter”) in the 13th National Report and in the 15th National Report of Sweden and also to the Conclusions 2014 of the European Committee of Social Rights whereby Sweden is said to be in conformity with Article 5 of the Charter, the Government can only confirm that the respect to organise is upheld and that there is no closed shop clauses in any collective agreements.