

ACTIVITY REPORT 2022



European Committee
of Social Rights



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COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Activity Report 2022

**European Committee
of Social Rights**

The European Committee of Social Rights rules on the conformity of the situation in States with the European Social Charter.

The Committee adopts “conclusions” in respect of national reports submitted annually by the States Parties, and it adopts “decisions” in respect of collective complaints lodged by the social partners and non-governmental organisations.

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

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Cover and layout:
Documents and Publications
Production Department (SPDP),
Council of Europe
Photo: © Shutterstock

This publication has not been copy-edited by the SPDP Editorial Unit to correct typographical and grammatical errors.

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Printed at the Council of Europe

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Introduction

Key Developments

This year has been notable for two key developments: the Russian military aggression against Ukraine and the outcomes of the European Social Charter system reform process.

The Russian military aggression launched in February 2022 has had wide-ranging consequences in terms of the lives and human rights of the people in Ukraine, including their enjoyment of social rights as set out in the European Social Charter. Karin Lukas, my predecessor as President of the European Committee of Social Rights (ECSR) was quick to [express solidarity](#) with the people in Ukraine, with the ECSR itself issuing a [statement](#) two weeks later.

The ECSR emphasised that military aggression against another State Party is per se inconsistent with the spirit and purposes of the European Social Charter and with all of the commitments undertaken by the States Parties under Part II of the Charter. The ECSR expressed deep concern about the people in Ukraine, as well as about the situation of all refugees, asylum seekers and others fleeing the conflict. It stated that the crisis caused by the military aggression should not have as a consequence the reduction of the protection of the rights recognised by the Charter, both within Ukraine and beyond its borders. The ECSR also stressed that the States Parties to the Charter are bound to take all necessary steps to ensure Charter rights are effectively guaranteed at all times, including, where necessary, through international assistance and cooperation.

The military aggression had direct implications for the work of the Committee in 2022. It resulted in Russia's exclusion as a member of the Council of Europe and its cessation as a State Party to the Charter. The Russian national who was serving as a member of the ECSR resigned in late March 2023. Due to the non-replacement of the Russian member, the ECSR had to complete its work in 2022 on the basis of a membership of 14, rather than 15.

In the circumstances, the ECSR did not examine the situation in Ukraine under the reporting procedure in 2022. When it resumes receiving reports from Ukraine, it will of course bear in mind the challenges posed to Ukraine in terms of social rights achievement by the conflict. More generally, as reconstruction moves forward, it will be vital that the Charter is used as a framework for efforts in that regard, with social rights being integrated meaningfully into reconstruction-related aims, processes and outcomes. Relatedly, I welcome the new Council of Europe project on "Enhanced social protection in Ukraine":¹ The project aims to promote the respect of social rights and improve social protection for people in a situation of vulnerability. This of course includes persons affected by the war.

Turning to the European Social Charter system reform process, I welcome the Council of Europe member states' increased attention to social rights and to the Charter system. I commend the work of the Committee of Ministers ad hoc working party on improving the European Social Charter system (*GT-CHARTE*). It held 15 meetings over roughly 18 months. As a result, on 27 September 2022, the Committee of Ministers adopted operational [decisions](#) (with the actual arrangement specified in a the report [CM\(2022\)114-final](#)). They cover the statutory reporting procedure as well as making provision for a new form of report – termed an 'ad hoc' report – focused on critical or emerging issues. The Committee of Ministers' decisions also address certain procedural aspects of the follow-up to decisions in respect of collective complaints. Finally, they respond to the desire on the part of States Parties for enhanced dialogue and other means of improving the effectiveness of the monitoring activities under the Charter. The Committee of Ministers also adopted [decisions](#) on longer-term substantive and procedural issues concerning the Charter system in March 2023.

Moving forward, in addition to implementing the amended state reporting procedure, the ECSR looks forward in particular to the enhanced dialogue with States Parties envisaged by the Committee of Ministers and to pursuing such constructively and in a spirit of cooperation. This comes at a time when the contribution of the European Social Charter to promoting equality and social justice – and thus to democratic security and sustainability – has never been clearer or more important.

The progressive implementation of the operational arrangements will start in 2023. In practical terms, States Parties will be requested to submit an ad hoc report by the end of 2023 on one of the two groups of Charter provisions. Detailed information will be shared with States Parties and other stakeholders in the coming months.

1. The Project covers the period of 01 January 2023 – 31 December 2024 within the framework of the Council of Europe Action Plan for Ukraine "Resiliency, Recovery and Reconstruction" for 2023-2026.

It is important to note that ECSR members, as well as the Chairperson of the Governmental Committee of the European Social Charter and the European Code of Social Security, have conveyed the clear message to the Council of Europe Member States representatives that it will be impossible to ensure effective and full implementation of the reform outcomes without adequate resources. Putting the reforms into practice will require very significant additional work by the Charter organs and by the Secretariat. If resources are not sufficient, not only will the Charter organs be unable to fully respond to what the Committee of Ministers decided, but existing work will suffer.

Developments in terms of the Reporting and Collective Complaints Procedures

In 2022, the ECSR examined 33 reports submitted by States Parties on the Charter provisions relating to labour rights.² The number of comments on state reports submitted by trade unions, national human rights institutions, equality bodies and non-governmental organisations continued to grow. These comments are useful in terms of assisting the ECSR to better understand the situations in law and in practice that it is called upon to examine. In January 2023, the ECSR adopted 611 conclusions. Non-conformities related, for example, to excessively long working days or weeks, a failure to guarantee sufficient remuneration to ensure a decent standard of living, inadequate protection against sexual harassment at work, excessive restrictions on the right to organise and on the right to strike, and insufficient promotion of the right to bargain collectively.

The number of [collective complaints](#) continued to increase which, despite the intense work of the ECSR, made it impossible to reduce the existing backlog. The average duration of the admissibility stage stood at 7.5 months but the average time for the ECSR to reach a decision remained around 40 months, which is too long. The situation is regrettable given that the collective complaints procedure – the state-of-the-art supervisory mechanism under the European Social Charter and the leading economic and social rights complaints system in Europe – is meant to provide direct and rapid input with regard to law and policy decision-making at the national level. This input should take place at the earliest opportunity so as to maximise assistance to States Parties in bringing the situation into compliance with their Charter obligations. Quicker decisions also contribute to ensuring that the rights challenges faced by people within the jurisdiction of those States Parties' are addressed in a timely way. The ECSR is firmly committed to treating collective complaints in a more speedy way, but faces serious resource limitations that constrain the capacity of the Secretariat (and, resultantly, the ECSR) – a fact that serves to underline the importance that the pending reforms are adequately resourced.

Under the current system, seven States were exempted from reporting on the accepted provisions of the European Social Charter on labour rights and were instead invited to provide information on their follow-up to the decisions on the merits of

2. National reports submitted by States Parties: Reporting system of the European Social Charter (coe.int)

collective complaints in which the ECSR had found violations of Charter rights. The complaints related inter alia to workers' rights, the gender pay gap, physical punishment of children, housing and health rights. The ECSR adopted its [findings](#) on the follow-up reports in December 2022.

The ECSR found that progress had been made in some cases, but that none of the seven States Parties had brought the situation fully into conformity with the Charter in respect of the eleven decisions involved. While acknowledging that some of the situations examined are complex and require time and resources to bring them into conformity with the Charter, I took the opportunity provided by the publication of the ECSR's [Findings 2022](#) to call upon the States concerned to take all necessary measures to implement the decisions at issue. Complexity and cost should not lead to inaction. States Parties should not need to be reminded of their duty to act in good faith, both in their participation in the procedure under the Additional Protocol on collective complaints and in relation to the Charter itself. Furthermore, the Committee of Ministers – the body with ultimate responsibility for overseeing the follow-up to decisions in collective complaints – should continue to exercise vigilance in ensuring that the ECSR's decisions are properly implemented.

In 2022, the ECSR requested written reports on non-accepted provisions from four States Parties. It received only two. In response, the ECSR provided an indication of what provisions could reasonably, in its view, be accepted by the states concerned. This procedure, based on Article 22 of the 1961 Charter, is part of the broader review or oversight procedures under the Charter that is intended to encourage full alignment of the situation of states parties with all of the Charter provisions. As stated in the last report adopted in the framework of the Charter reform process ([CM\(2022\)196-final](#)): "It is in the spirit of the Charter for states to progressively increase their commitments, tending towards acceptance of most – if not all – provisions of the Charter, as opposed to an *à la carte* stagnancy."

In line with earlier Committee of Ministers [decisions](#), the ECSR reviewed the procedure on non-accepted provisions in 2022, notably by extending it to all States Parties, whether to the Revised Charter or the 1961 Charter. In future, it will be possible to supplement written State reports with bilateral meetings, and there will be increased opportunity for the involvement of national and international social partners, non-governmental organisations, national human rights institutions, equality bodies, and other stakeholders.

Very positively, in July 2022, Bulgaria accepted eight additional provisions of the European Social Charter. A number of other States Parties have indicated the intention to accept additional provisions. Regrettably, only 16 States Parties have so far accepted the collective complaints procedure. Against this backdrop, I welcome the 15 March 2023 Committee of Ministers [decision](#) instructing the Governmental Committee to examine "ways of [...] promoting acceptance by member States of further commitments under the Charter where possible (ratification of the revised Charter, acceptance of further – or all – provisions and of the collective complaints procedure)".

Looking Forward

I note that the Council of Europe Summit of 2023 in Reykjavik will be an opportunity to reflect on the Charter's status as an integral part of the Organisation's human rights framework as well as the fundamental role of social rights with regard to sustaining and enhancing the rule of law and democracy. It will enable States Parties to renew their commitment to social rights and to the European Social Charter system, by expressing their support for the continuous strengthening of both the Charter's normative framework and the monitoring conducted in relation to the Charter.

I would like to conclude by paying tribute to the members of the ECSR and to their indefatigable effort to improve the implementation of social rights and of the European Social Charter. At the end of the year, the ECSR said farewell to three treasured colleagues, former ECSR Presidents Karin Lukas and Giuseppe Palmisano, as well as Barbara Kresal. Each of them made an outstanding contribution to the work of the ECSR over many years. I know they will remain staunch ambassadors for the Charter and I wish them all success in their future endeavours. At the end of the year, new members were elected – Carmen Salcedo Beltrán (Spanish) and Monika Šimunkova (Czech). The elections to the remaining two vacant seats were completed in early 2023, with Franz Marhold (Austrian) and Alla Fedorova (Ukrainian) being elected, the latter for the remainder of the term of Ekaterina Torkunova (Russian) (who resigned in March 2022).

Aoife Nolan,
President of the European Committee of Social Rights

1. Overview and key figures

The European Committee of Social Rights (ECSR) was set up by Article 25 of the 1961 European Social Charter. Its function is to rule on the conformity of States Parties' law and practice with the 1996 revised European Social Charter, the 1988 Additional Protocol and the initial 1961 Charter³. It is made up of 15 independent members elected by the Committee of Ministers (see below for its composition)⁴.

The ECSR conducts its supervision by means of two distinct but complementary procedures: the reporting procedure, in which it examines written reports submitted by States Parties at regular intervals, and the collective complaints procedure, which allows certain national and international non-governmental organisations to lodge complaints against States Parties that have agreed to be bound by this procedure.⁵

The national reports and the collective complaints are examined during the ECSR's sessions. There were seven sessions in 2022:

- ▶ 325th Session 24-28 January 2022
- ▶ 326th Session 21-25 March 2022
- ▶ 327th Session 16-20 May 2022
- ▶ 328th Session 4-8 July 2022
- ▶ 329th Session 12-16 September 2022
- ▶ 330th Session 17-21 October 2022
- ▶ 331st Session 5-9 December 2022.

The ECSR examined 33 national reports submitted by States Parties to the Charter. These describe how they implement the Charter in law and in practice as regards the provisions covered by the thematic group "Labour rights":

- ▶ the right to just conditions of work (Article 2);
- ▶ the right to a fair remuneration (Article 4);
- ▶ the right to organise (Article 5);
- ▶ the right to bargain collectively (Article 6);
- ▶ the right to information and consultation (Article 21/Article 2 of the Additional Protocol);
- ▶ the right to take part in determining and improving the working conditions and working environment (Article 22/Article 3 of the Additional Protocol);
- ▶ the right to dignity at work (Article 26);

3. See Appendix 1: Signatures and ratifications of the European Social Charter

4. See Appendix 2: Composition of the European Committee of Social Rights at 1 January 2023

5. In response to national reports, the Committee adopts conclusions, in response to collective complaints, it adopts decisions.

- ▶ the right of workers' representatives to protection in the undertaking and the facilities to be accorded to them (Article 28);
- ▶ the right to information and consultation in collective redundancy procedures (Article 29).

The national reports cover the period from 1 January 2017 until 31 December 2020.

The ECSR presented its Conclusions 2022 on the provisions of the Charter relating to thematic group "Labour rights" in respect of 33 States at an online press conference on 22 March 2023.

In the context of the reporting procedure, the ECSR adopted 611 conclusions⁶ in respect of the 33 States, including 245 conclusions of non-conformity with the Charter and 255 conclusions of conformity. In 111 cases, the ECSR was unable to assess the situation due to a lack of information ("deferrals").

The ECSR also presented its [Findings 2022](#) in respect of seven States (Croatia, Cyprus, the Czech Republic, the Netherlands, Norway, Slovenia and Sweden) bound by the [collective complaints procedure](#). In accordance with the current system for presenting State reports on the application of the European Social Charter, these States were exempted for 2022 from reporting on the accepted provisions of the Charter in the context of the ordinary "conclusions" and, instead, were invited to provide information on the follow-up given to the decisions on the merits of collective complaints in which the ECSR had found violations.

The ECSR found that none of the decisions examined in these Findings had been fully implemented by the States concerned to bring the situation into conformity with the Charter, although in several cases it found that definite progress had been made.

Sixteen complaints were lodged in 2022 against eight States Parties to the Charter: Spain (four), Italy (four), France (three), Norway (one), Portugal (one) Bulgaria (one), Ireland (one) and Greece (one).

During the seven sessions held in 2022, the ECSR, adopted 24 decisions in total, 14 of which were on the merits and 10 were on admissibility, including two decisions on admissibility and immediate measures.

With regard to decisions adopted in the course of 2022, the average processing time was 7.5 months for the ten admissibility decisions, and 40 months for the fourteen decisions on the merits. In comparison, the average time over the entire period from 1998 to 2022 was 6.2 months for admissibility decisions and 20.3 months for decisions on the merits.

6. [Conclusions 2022 of the European Committee of Social Rights](#).

2. Composition of the European Committee of Social Rights

The composition of the ECSR is governed by Article 25 of the Charter. Its fifteen members are required to be “*independent experts of the highest integrity and of recognised competence in international social questions*”. They are nominated by States Parties and elected by the Committee of Ministers for a six-year period, renewable once.

Elections take place once every two years, with a third of the seats (five) to be filled at each election.

In November 2022, the Committee of Ministers elected two new members for a term running from 1 January 2023 to 31 December 2028: Ms Monika Šimůnková (Czech Republic), lawyer, former Deputy Public Defender of Rights and previously Member of the Committee on the Rights of the Child, and Government Commissioner for Human Rights in the Czech Republic, and Ms Carmen Salcedo Beltran (Spain), Professor of Labour law and social security at the University of Valencia (Spain), Director of the International Research Group on Human Rights and the European Social Charter.

In addition, the Ministers’ Deputies re-elected Ms Aoife Nolan (Ireland), Professor of International Human Rights Law and Co-Director of the Human Rights Law Centre, School of Law, University of Nottingham, United Kingdom, and Ms Kristine Dupate (Latvia), Associate Professor, International and European law, Faculty of Law, University of Latvia, both for a second term beginning on 1 January 2023 and ending on 31 December 2028.

3. Collective complaints procedure

3.1. Overview

Sixteen new complaints were lodged in 2022⁷. During the seven sessions held in 2022, the ECSR adopted fourteen decisions on the merits, including two decisions on joint complaints, and ten decisions on admissibility, including two decisions on admissibility and immediate measures. One of the decisions indicated that immediate measures should be taken.

The sixteen complaints registered in 2022 were lodged against eight States Parties: Italy (four), Spain (four), France (three), Bulgaria (one), Greece (one), Ireland (one), Norway (one) and Portugal (one); eight complaints were submitted by national trade unions, one was lodged by an employers' organisation, six by international NGOs and one by several NGOs and a national trade union.

With regard to decisions adopted during 2022, the average processing time was 7.5 months for the ten admissibility decisions and 40 months for the fourteen decisions on the merits. In comparison, the average processing time over the entire period from 1998 to 2022 was 6.2 months for admissibility decisions and 20.3 months for decisions on the merits.

3.2. Decisions made public in 2022

In 2022, the following eight decisions on the merits were made public:

- ▶ **The decision on the merits in *European Youth Forum (YFJ) v. Belgium*, Complaint No. 150/2017, became public on 16 February 2022.**

The YFJ alleged that the Volunteer Rights Act of 3 July 2005, permitting the practice of unpaid internships, and the lack of enforcement of a number of provisions in the national legislation regulating internships, violate Articles 4§1 (the right of workers to a remuneration sufficient for a decent standard of living for themselves and their families) and 7§5 (the right of young workers and apprentices to a fair wage or other appropriate allowances) in conjunction with Article E (non-discrimination) of the Charter.

In its decision on the merits, adopted on 8 September 2021, the ECSR decided to assess this complaint exclusively under Article 4§1 and Article E of the Charter and concluded:

- by 13 votes to 1 that there was a violation of Article 4§1 of the Charter on the ground that the Labour Inspectorate is not sufficiently effective in detecting and preventing “bogus internships”;

7. See Appendix 3: Collective complaints registered in 2022

- by 11 votes to 3 that there was a violation of Article E read in conjunction with Article 4§1 of the Charter.

The Committee of Ministers adopted Recommendation CM/RecChS(2022)20⁸ on 14 September 2022.

- ▶ **The decision on the merits in *Unione sindacale di base Settore pubblico impiego (USB) v. Italy, Complaint No. 153/2017*, became public on 25 May 2022.**

The USB alleged that regional and national legislation and case law do not adequately protect public sector workers employed by the municipalities in Sicily from abuses arising from the successive renewal of their fixed-term employment contracts in violation of the applicable legislation regarding such renewals, insofar as such contracts cannot be converted into indefinite duration contracts upon completion of a certain length of service, contrary to what applies in the private sector. In view of this, the USB asked the ECSR to find that the situation in Sicily was in breach of Articles 1§1, 1§2, 4§1, 4§4, 5, 6§4 and 24 read alone, and of Article E read in conjunction with each of the provisions concerned of the Charter.

In its decision on the merits, adopted on 8 December 2021, the ECSR decided to assess this complaint exclusively under Article 1§2 of the Charter and concluded that there was no violation of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2022)1⁹ on 20 April 2022.

- ▶ **The decision on the merits in *Unione sindacale di base (USB) v. Italy, Complaint No. 170/2018*, became public on 5 July 2022.**

The USB alleged that Italian legislation and case law do not adequately protect “socially useful workers” in Sicily and Campania who carry out regular work which should be assigned to employees under permanent or fixed-term contracts. A permanent or fixed-term contract regime would enable workers to have stable employment, earn a living through work freely undertaken, sufficient remuneration, and career progress. In addition, the USB alleged that “socially useful workers” do not enjoy a reasonable period of notice of dismissal, the right to protection against termination of their employment without a valid reason or to appeal against such termination and request compensation.

The USB further alleged that this category of workers suffers discrimination in comparison with staff on permanent or fixed-term contracts as regards alternative social security protection and the right to be granted regular employment status with the public administration which uses their services. In view of this, the USB asked the ECSR to find that the situation in Italy was in breach of Articles 1§1, 1§2, 4§1, 4§4,

8. [CM/RecChS\(2022\)20](#): Recommendation – European Youth Forum (YFJ) v. Belgium, Complaint No. 150/2017 (Adopted by the Committee of Ministers on 14 September 2022 at the 1442nd meeting of the Ministers’ Deputies).

9. [CM/ResChS\(2022\)1](#): Resolution – Unione sindacale di base – settore pubblico impiego (USB) v. Italy – Complaint No. 153/2017 (Adopted by the Committee of Ministers on 20 April 2022 at the 1432nd meeting of the Ministers’ Deputies)

5, 6§4, 12§1 and 24 read alone, as well as of Article E read in conjunction with each of the aforementioned articles of the Charter.

In its decision on the merits, adopted on 26 January 2022, the ECSR decided to assess this complaint exclusively under Article 1§2 and Article E in conjunction with Article 12§1 of the Charter and concluded:

- by 13 votes against 2 that there was a violation of Article 1§2 of the Charter;
- unanimously that there was a violation of Article E read in conjunction with Article 12§1 of the Charter.

The Committee of Ministers adopted Recommendation CM/RecChS(2022)21¹⁰ on 3 November 2022.

► **The decision on the merits in *Associazione Professionale e Sindacale (ANIEF) v. Italy, Complaint No. 159/2018*, became public on 23 August 2022.**

The ANIEF alleged that Italy has violated Articles 1§1, 1§2, 4§1, 4§4, 5, 6§4 and 24 as well as Article E in conjunction with each of the provisions concerned of the Charter as regards the situation of some 50,000 teachers, who obtained primary school teaching certificates (“*diploma magistrale*”) during or before 2001-2002, i.e., before stricter qualifications for teaching were required by law. The ANIEF pointed out that even if these teachers had been regularly working as supply teachers in public pre-school and primary school under fixed-term contracts, as of 1 September 2016, they could not have their fixed-term contracts extended any longer beyond 36 months (as provided by Law No. 107/2015 at the time the collective complaint was lodged). The ANIEF also pointed out that these teachers were not entitled to be registered in the eligibility ranking lists to be drawn upon exhaustion (“*ERE lists*”) from which teachers can be recruited under indefinite duration contracts, because their qualification was not recognised as sufficient by the Council of State (Judgment No. 11/2017 of the Council of State in Plenary Session, 20 December 2017).

In its decision on the merits, adopted on 22 March 2022, the ECSR decided to assess this complaint exclusively under Article 1§2 of the Charter and concluded that there was no violation of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2022)4¹¹ on 14 September 2022.

► **The decision on the merits in *Confédération Générale du Travail Force Ouvrière (CGT-FO) v. France, Complaint No. 160/2018* and *Confédération générale du travail (CGT) v. France, Complaint No. 171/2018*, became public on 26 September 2022.**

The complainant organisations, CGT-FO and CGT, asked the ECSR to find that the reforms made to the French Labour Code (*Code du travail*), introduced by Order

10. [CM/RecChS\(2022\)21](#): Recommendation – Unione sindacale di base (USB) v. Italy – Complaint No. 170/2018 (Adopted by the Committee of Ministers on 3 November 2022 at the 1447th meeting of the Ministers’ Deputies)

11. [CM/ResChS\(2022\)4](#): Resolution – Associazione Professionale e Sindacale (ANIEF) v. Italy – Complaint No. 159/2018 (Adopted by the Committee of Ministers on 14 September 2022 at the 1442nd meeting of the Ministers’ Deputies)

No. 2017-1387 of 22 September 2017, violate Article 24 of the Charter (the right to protection in cases of termination of employment) on the ground that they lay down an upper limit on the amount of compensation paid to the worker in the event of dismissal without valid reasons. The complainant organisations asserted that this meant that victims of unjustified dismissals are unable to obtain through the domestic courts compensation that is adequate – in relation to the damage incurred – and dissuasive for the employers, and that the reform fails to guarantee a right to an effective remedy against the unlawful dismissal.

In its decision on the merits, adopted on 23 March 2022, the ECSR concluded unanimously that there was a violation of Article 24.b of the Charter.

- ▶ **The decision on the merits in *Panhellenic Association of Pensioners of the OTE Group Telecommunications (PAP-OTE) v. Greece, Complaint No. 165/2018*, became public on 24 October 2022.**

The PAP-OTE asked the ECSR to rule that the social security reform introduced by Laws Nos. 4366/2015, 4387/2016 and 4472/2017 is in breach of Article 12§2 and 3, and Article 23 of the Charter, in particular due to the failure to provide restitution for earlier pension reductions found to be in breach of the Charter and the introduction of further reductions in social security benefits.

In its decision on the merits, adopted on 17 May 2022, the ECSR decided to assess this complaint exclusively under Article 12§3 of the Charter and concluded that there was no violation of the Charter.

The Committee of Ministers adopted Resolution CM/ResChS(2022)5¹² on 14 September 2022.

- ▶ **The decision on the merits in *Unione sindacale di base – Settore pubblico impiego (USB) v. Italy, Complaint No. 152/2017*, became public on 28 October 2022.**

The USB alleged that the situation in Italy is contrary to Articles 1§2, 4§4, 6§4, 10§§1 and 3 as well as Article E in conjunction with each of these provisions of the Charter. In particular, it alleged that Italy has breached the obligation to guarantee the right of public servants within the Ministry of Justice, known as *ausiliari* [support staff], to earn their living in an occupation freely entered into by assigning them duties associated with the higher category of public servants without paying them equivalent remuneration and with no possibilities of promotion. The USB also alleged that the existing legislation does not allow public servants who are support staff to undertake the vocational training required to allow them to adapt to the technological innovations of recent years. It further alleged that the Italian Government does not guarantee the right of these public servants to collective action.

In its decision on the merits, adopted on 18 May 2022, the ECSR decided to assess this complaint exclusively under Articles 1§2 and 10§3 of the Charter and concluded that there was no violation of the Charter.

12. [CM/ResChS\(2022\)5](#): Resolution – *Panhellenic Association of Pensioners of the OTE Group of Telecommunications (PAP-OTE) v. Greece – Complaint No. 165/2018* (Adopted by the Committee of Ministers on 14 September 2022 at the 1442nd meeting of the Ministers' Deputies)

The Committee of Ministers adopted Resolution CM/ResChS(2022)3¹³ on 14 September 2022.

- ▶ **The decision on the merits in *Syndicat CFDT de la métallurgie de la Meuse v. France, Complaint No. 175/2019*, became public on 30 November 2022.**

The CFDT Meuse Metallurgy alleged that the provisions of the Law of 13 July 1973 and Order No. 2017-1387 of 22 September 2017 on the predictability and increased security of employment relationships, as inserted in paragraphs 1 and 2 of Article L.1235-3 of the Labour Code, which amended the provisions relating to the financial compensation for dismissals without a valid reason by setting mandatory compensation ranges, according to the worker's length of service and the size of the undertaking, constitute a breach of Article 24 of the Charter both on the issue of the adequate compensation in the case of unfair dismissal and on the issue of the right to reinstatement.

In its decision on the merits, adopted on 5 July 2022, the ECSR concluded unanimously that there was a violation of Article 24.b of the Charter in respect of adequate compensation.

3.3. Further decisions adopted in 2022

In addition, the following decisions adopted by the ECSR in 2022 were made public in 2023¹⁴:

- ▶ The decision on the merits in ***Confédération générale du travail (CGT) v. France, Complaint No. 155/2017***, adopted on 14 September 2022, which became public on 14 February 2023.
- ▶ The decision on the merits in ***Finnish Society of Social Rights v. Finland, Complaint No. 172/2018***, adopted on 14 September 2022, which became public on 15 February 2022.
- ▶ The decision on the merits in ***Confederazione Generale Sindacale (CGS) & Federazione Lavoratori Pubblici e Funzioni Pubbliche (FLP) v. Italy, Complaint No. 161/2018***, adopted on 19 October 2022, which became public on 22 February 2023.
- ▶ The decision on the merits in ***Associazione nazionale sindacato professionisti sanitari della funzione infermieristica – Nursing Up v. Italy, Complaint No. 169/2018***, adopted on 19 October 2022, which became public on 22 February 2023 following the adoption of CM/ResChS(2023)2.¹⁵
- ▶ The decision on the merits in ***European Disability Forum (EDF) and Inclusion Europe v. France, Complaint No. 168/2018***.

13. [CM/ResChS\(2022\)3](#): Resolution – Unione sindacale di base – settore pubblico impiego (USB) v. Italy – Complaint No. 152/2017 (Adopted by the Committee of Ministers on 14 September 2022 at the 1442nd meeting of the Ministers' Deputies)

14. At the time of writing, the dates of adoption and publication of some decisions are still confidential

15. [CM/ResChS\(2023\)2](#) *Associazione nazionale sindacato professionisti sanitari della funzione infermieristica – Nursing Up v. Italy, Complaint No. 169/2018*

- ▶ The decision on the merits in *Syndicat CFDT général des transports et de l'environnement de l'Aube v. France*, Complaint No. 181/2019 and *Syndicat CFDT de la métallurgie de la Meuse v. France*, Complaint No. 182/2019.
- ▶ The decision on the merits in *Sindacato autonomo Pensionati Or.S.A. v. Italy*, Complaint No. 167/2018.
- ▶ The decision on the merits in *European Roma Rights Centre (ERRC) v. Belgium*, Complaint No. 185/2019.

3.4. Follow-up to decisions of the European Committee of Social Rights by the Committee of Ministers

In the event that the ECSR's decisions identify violations of the Charter, the Committee of Ministers of the Council of Europe examines the follow-up to be given to the decisions, and the respondent States are invited to provide information on the measures taken or planned to bring the situation into conformity. Under Article 9 of the Protocol providing for a system of collective complaints, the Committee of Ministers shall adopt a recommendation to the respondent State by a two-thirds majority of those voting or a resolution, by a majority of those voting, notably when the respondent States announce that specific steps have already been taken or will be taken in order to bring the situation into conformity. In cases where the ECSR finds no violation of the Charter, the Committee of Ministers adopts a resolution closing the procedure.

The Committee of Ministers' decisions on follow-up are based on social and economic policy considerations. The Committee of Ministers cannot reverse the legal assessment made by the ECSR.

In 2022, the Committee of Ministers adopted 4 recommendations concerning 4 complaints where the ECSR identified one or more violations of the Charter:

▶ **CM/RecChS(2022)1**

Recommendation – *Confédération générale du travail (CGT) and Confédération française de l'encadrement-CGC (CFE-CGC) v. France*, Complaint No. 149/2017 (Adopted by the Committee of Ministers on 23 February 2022 at the 1426th meeting of the Ministers' Deputies).

▶ **CM/RecChS(2022)2**

Recommendation – *International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece*, Complaint No. 173/2018 (Adopted by the Committee of Ministers on 20 April 2022 at the 1432nd meeting of the Ministers' Deputies).

▶ **CM/RecChS(2022)20**

Recommendation – *European Youth Forum (YFJ) v. Belgium*, Complaint No. 150/2017 (Adopted by the Committee of Ministers on 14 September 2022 at the 1442nd meeting of the Ministers' Deputies).

► **CM/RecChS(2022)21**

Recommendation – *Unione sindacale di base (USB) v. Italy* – Complaint No. 170/2018 (Adopted by the Committee of Ministers on 3 November 2022 at the 1447th meeting of the Ministers’ Deputies). In 2022, the Committee of Ministers also adopted four resolutions concerning four complaints where the ECSR identified no violation of the Charter:

► **CM/ResChS(2022)1**

Resolution – *Unione sindacale di base – settore pubblico impiego (USB) v. Italy* – Complaint No. 153/2017 (Adopted by the Committee of Ministers on 20 April 2022 at the 1432nd meeting of the Ministers’ Deputies).

► **CM/ResChS(2022)3**

Resolution – *Unione sindacale di base – settore pubblico impiego (USB) v. Italy* – Complaint No. 152/2017 (Adopted by the Committee of Ministers on 14 September 2022 at the 1442nd meeting of the Ministers’ Deputies).

► **CM/ResChS(2022)4**

Resolution – *Associazione Professionale e Sindacale (ANIEF) v. Italy* – Complaint No. 159/2018 (Adopted by the Committee of Ministers on 14 September 2022 at the 1442nd meeting of the Ministers’ Deputies).

► **CM/ResChS(2022)5**

Resolution – *Panhellenic Association of Pensioners of the OTE Group of Telecommunications (PAP-OTE) v. Greece* – Complaint No. 165/2018 (Adopted by the Committee of Ministers on 14 September 2022 at the 1442nd meeting of the Ministers’ Deputies).

3.5. European Committee of Social Rights findings on the follow-up to decisions in the collective complaints procedure

In the context of the reporting procedure, States Parties bound by the collective complaints procedure every other year submit so-called “simplified reports” (instead of the ordinary thematic reports on accepted provisions) dealing exclusively with the follow-up given to decisions on the merits of collective complaints in which the ECSR found a violation.¹⁶

In 2022, the ECSR examined the simplified reports submitted by Croatia, Cyprus, the Czech Republic, the Netherlands, Norway, Slovenia and Sweden.¹⁷

The ECSR found that none of the decisions examined in these Findings had been fully implemented by the States concerned to bring the situation into conformity with the Charter, although in several cases it found that definite progress had been made.

16. For detailed information on this type of reporting, see the Social Charter website: <https://www.coe.int/en/web/european-social-charter/reporting-system>

17. *Findings 2022* of the European Committee of Social Rights

4. Reporting procedure

4.1. Overview

In 2022, in the context of the reporting procedure, the ECSR examined national reports¹⁸ submitted by 33 States Parties on the articles of the Charter relating to the thematic group “Labour rights”:

- ▶ the right to just conditions of work (Article 2);
- ▶ the right to a fair remuneration (Article 4);
- ▶ the right to organise (Article 5);
- ▶ the right to bargain collectively (Article 6);
- ▶ the right to information and consultation (Article 21/Article 2 of the Additional Protocol);
- ▶ the right to take part in the determination and improvement of the working conditions and working environment (Article 22/Article 3 of the Additional Protocol);
- ▶ the right to dignity at work (Article 26);
- ▶ the right of workers’ representatives to protection in the undertaking and facilities to be accorded to them (Article 28);
- ▶ the right to information and consultation in collective redundancy procedures (Article 29).

The national reports cover the period from 1 January 2017 until 31 December 2020.

The following 33 countries were examined:

Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Republic of Moldova, Montenegro, the Netherlands Curaçao, the Netherlands Caribbean part, North Macedonia, Poland, Portugal, Romania, Serbia, the Slovak Republic, Spain, Türkiye and the United Kingdom.

No report was submitted by Ukraine due to Russia's war of aggression against it.

No report was submitted by the Russian Federation, which ceased to be a member of the Council of Europe in March 2022 and, as a consequence, ceased to be a Party to the European Social Charter.

No report was submitted by the Netherlands Sint Maarten. The report submitted by the Netherlands Aruba concerned provisions not under examination during the reporting cycle and hence was not examined.

Denmark and Iceland submitted their reports too late for them to be examined. However, exceptionally, the ECSR decided to examine Denmark’s report relating to

18. National reports submitted by State parties: Reporting system of the European Social Charter (coe.int)

Articles 5 and 6§2 due to the fact that a meeting had been held in March 2022 with the Danish authorities on the topic of the Danish International Shipping Register and its conformity with the articles in question.

For its examination of the State reports, the ECSR 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 terms of ensuring that the ECSR had a full, accurate understanding of the national situations concerned.

At its session in January 2023, the ECSR adopted 611 conclusions in relation to the Charter.

There were 255 conclusions of conformity and 245 conclusions of non-conformity. In 111 cases, the ECSR was unable to assess the situation due to lack of information (“deferrals”).

With regard to the right to just conditions of work, the ECSR found that in some countries the law does not guarantee the right to reasonable weekly working hours for certain categories of workers and noted that, in some jobs, the working day may exceed 16 hours and even be as long as 24 hours.

In many countries, the ECSR concluded that the work performed on a public holiday is not adequately compensated and that the right of all workers to public holidays with pay is not guaranteed. Also, in some countries, workers who suffer from illness or injury while on holiday are not entitled to take the days lost at another time.

The information provided to the ECSR on fair remuneration revealed that, in a number of countries, the statutory minimum wage or the lowest wages fixed by collective agreements were too low in comparison with the average wage and did not ensure a decent standard of living.

With respect to the obligation of States to promote joint consultation between workers and employers, the ECSR noted the insufficient promotion of collective bargaining and the restrictions on the right to collective bargaining.

The ECSR found, in some cases, that workers are not granted an effective right to participate in the decision-making process about working conditions, work organisation and the working environment within the undertaking, and legal remedies are not available to workers in the event of infringements of this right.

In several countries, the ECSR noted the lack of appropriate and effective redress (compensation and reinstatement) in cases of sexual harassment, and the absence of adequate prevention of sexual harassment in the workplace.

The ECSR concluded that, in several countries, preventive measures aimed at ensuring that redundancies do not take effect before employers’ obligation to inform and to consult has been fulfilled (such as recourse to administrative and judicial proceedings) do not exist, as well as the effective sanctions applicable in cases where employers fail to fulfil their obligations, under the Charter, of information and consultation in collective redundancy procedures.

Nevertheless, the ECSR noted with satisfaction positive developments in some countries concerning restrictions on the right to strike, and legislative measures on defining and prohibiting harassment and sexual harassment at work.

Furthermore, amendments to the labour codes of several countries have introduced regulations aimed at ensuring that persons exercising worker's representation functions do not suffer discrimination or other negative consequences due to their role.

In addition, in 2022, the ECSR adopted the following statements of interpretation:

Statement of interpretation on Article 4§4 – method of assessment

Following on from its statement of interpretation on Article 4§4 (2018), the ECSR recalls that the question of the reasonableness of the notice periods will no longer be addressed, except where the notice periods are manifestly unreasonable. The ECSR will assess this question on the basis of:

1. The rules governing the setting of notice periods (or the level of compensation in lieu of notice):
 - ▶ according to the source of the rule, namely the law, collective agreements, individual contracts and court judgments;
 - ▶ during any probationary periods, including those in the public service;
 - ▶ with regard to the treatment of workers in insecure jobs;
 - ▶ in the event of termination of employment for reasons outside the parties' control;
 - ▶ including any circumstances in which workers can be dismissed without notice or compensation.
2. Acknowledgment, by law, collective agreement or individual contract of the length of service, whether with the same employer or where a worker has been successively employed in precarious forms of employment relations.

The ECSR considers that in the event of the death of an employer who is a natural person, there is no obligation to give a notice period. However, it asks if there is a mechanism to protect the interests of workers employed by an employer who is a natural person in the event of their death (contractual or statutory compensation).

Statement of interpretation on Article 4§5 – method of assessment

The ECSR recalls that the deductions envisaged in Article 4§5 can only be authorised in certain circumstances which must be well-defined in a legal instrument (for instance, a law, regulation, collective agreement or arbitration award (Conclusions V (1977), Statement of interpretation on Article 4§5). The ECSR further recalls that deductions from wages must be subject to reasonable limits and should not *per se* result in depriving workers and their dependents of their means of subsistence (Conclusions 2014, Estonia).

With a view to making an in-depth assessment of national situations, the ECSR has considered it necessary to change its approach. Therefore, it asks States Parties to provide the following information in their next reports:

- ▶ a description of the legal framework regarding wage deductions, including the information on the amount of protected (unattachable) wage;
- ▶ information on the national subsistence level, how it is calculated, and how the calculation of that minimum subsistence level ensures that workers can provide for their subsistence needs and those of their dependents;
- ▶ information establishing that the disposable income of a worker earning the minimum wage after all deductions (including for child maintenance) is enough to guarantee the means of subsistence (i.e., to ensure that workers can provide for their subsistence needs and those of their dependents);
- ▶ a description of safeguards that prevent workers from waiving their right to the restriction on deductions from wages.

Statement of interpretation on Article 26 – online harassment related to work

The ECSR notes that the Charter applies to harassment in all places and circumstances related to work. These include a worker's usual workplace, as well as in situations in which a worker is working remotely (including at home) or where the worker works at a client's or contractor's workplace or home. It also applies where a worker is engaging in work-related activities such as conferences, training, work trips, work-related corporate events or social activities. The ECSR considers that the rights and obligations deriving from Article 26 of the Charter apply to incidents of online harassment. Online harassment may occur through a range of different media, including digital technologies/information and communication technologies ("ICT"), such as e-mails, text messages, chats/instant messages as well as video conference and social media platforms and virtual spaces. Online harassment may result in the very speedy propagation of information, mass dissemination and the availability of information for a long period of time.

The ECSR recalls that Article 26 of the Charter imposes positive obligations on States Parties to take appropriate preventive measures against online harassment and to take all appropriate measures to protect workers from such conduct. In particular, States Parties should, after consulting employers' and workers' organisations, provide information, carry out awareness-raising and training programmes in order to help workers identify, understand and be aware of online work-related harassment and its manifestation and effects, as well as their rights and responsibilities in this regard. Furthermore, information should be provided to workers on how to report and respond to online harassment (such as reporting the harassment to their employer, the online platform, the labour inspection or the police, or blocking/closing accounts). Moreover, workers should be informed about the procedure to follow and the remedies available. There must be protection from retaliation where workers report incidents of online harassment.

Furthermore, Article 26 of the Charter requires that victims enjoy effective protection in law and in practice against online harassment. This protection shall include the

right to challenge the offensive behaviour before an independent body, the right to obtain adequate compensation and the right not to be retaliated against for having pursued the respect of these rights. Victims of online harassment must have effective judicial remedies to seek reparation for pecuniary and non-pecuniary damage. In addition, the right to reinstatement should be guaranteed to workers who have been dismissed or pressured to resign for reasons linked to online harassment.

Lastly, responsible persons should be held accountable with a view to preventing the recurrence of online harassment. It must be possible for employers to be held liable when online harassment occurs in relation to work. States Parties shall ensure that the employer is under a formal obligation to report alleged incidents of online harassment to the competent investigating authorities.

4.2. Provisions concerned

An overview of the Conclusions 2022 is presented article by article below. A complete table of the Conclusions by country and by article can be found in Appendix 6¹⁹.

Article 2 – The right to just conditions of work

By accepting Article 2§1 of the Charter, States Parties undertake to provide for reasonable daily and weekly working hours, and for the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit.

The ECSR had addressed targeted questions to States Parties about the updated legal framework for ensuring reasonable working hours (and exceptions thereto); enforcement measures and monitoring arrangements; actions taken by authorities to ensure respect for reasonable working hours: remedial action taken in respect of specific sectors of activity; and law and practice on on-call periods.

With regard to Covid-19, States Parties were asked for information on the impact of the Covid-19 crisis on the right to just conditions of work and on the general measures taken to mitigate any adverse impact.

Of the 28 conclusions under Article 2§1 of the Charter, the ECSR considered that the situation was in conformity with the requirements of this provision in five cases (**Luxembourg, Andorra, Greece, Portugal and Romania**), three of which were “pending receipt of the information requested” (**Andorra, Portugal and Romania**).

The ECSR deferred its conclusion for nine countries (**Belgium, Ireland, Italy, Lithuania, Latvia, the Republic of Moldova, North Macedonia, Montenegro and the Slovak Republic**).

In 14 cases (**Germany, Spain, Poland, Albania, Armenia, Bosnia and Herzegovina, Estonia, Finland, France, Georgia, Hungary, Malta, Serbia and Türkiye**), the ECSR considered that the situation was not in conformity with this provision of the Charter. The grounds of non-conformity were the following:

19. See Appendix 6: Summary of the Committee’s Conclusions 2022

- ▶ the law does not guarantee the right to reasonable weekly working hours for certain categories of workers (**Malta**);
- ▶ in some jobs, the working day may exceed 16 hours and even be as long as 24 hours (**Poland, Armenia, Estonia and Hungary**) or 19 hours (**Finland**), while weekly working time may exceed 60 hours (**Spain, Albania and Türkiye**) or be as long as 72 hours (**Hungary**);
- ▶ on-call periods during which no effective work is undertaken are considered as rest periods (**Poland, France and Serbia**);
- ▶ there are no reference periods in flexible working time arrangements, or there are inadequate limits (**Bosnia and Herzegovina**);
- ▶ working time for employees under the annual working days system is unreasonable (**France**);
- ▶ there is no appropriate authority that supervises whether daily and weekly working time limits are respected in practice (**Georgia**);
- ▶ the reference period for the calculation of average working hours can be extended beyond 12 months (**Hungary**), or (during the pandemic), the reference period for banking of hours could be extended to 24 months upon the unilateral decision of the employer (**Hungary**).

Article 252 guarantees the right to public holidays with pay, in addition to weekly rest periods and annual leave. Public holidays may be specified in law or in collective agreements.

As there were no targeted questions on Article 252 issues during this reference cycle, the ECSR focused its assessment on States Parties for which the previous finding was one of non-conformity, deferral or conformity pending receipt of the information requested.

The ECSR examined **30 countries**: Germany, Spain, the United Kingdom, Luxembourg, Albania, Andorra, Armenia, Austria, Belgium, Bulgaria, Bosnia and Herzegovina, Estonia, Finland, France, Georgia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, the Republic of Moldova, North Macedonia, Malta, Montenegro, Portugal, Romania, Serbia, the Slovak Republic and Türkiye.

The ECSR considered that the situation was in conformity with the requirements of this provision in 16 countries (**Spain, Luxembourg, Andorra, Austria, Belgium, Bulgaria, Estonia, Finland, Hungary, Ireland, Lithuania, North Macedonia, Montenegro, Romania, the Slovak Republic and Türkiye**).

In two countries, the situation was found to be in conformity pending receipt of the information requested (**Armenia and Germany**).

The ECSR **deferred** its conclusion for three countries (**Albania, Latvia and Malta**).

In nine cases, the ECSR considered that the situation was not in conformity with this provision of the Charter (**Bosnia and Herzegovina, France, Georgia, Greece, Italy, the Republic of Moldova, Portugal, Serbia and the United Kingdom**).

Some examples of grounds for non-conformity include:

- ▶ work performed on a public holiday is not adequately compensated (**Bosnia and Herzegovina, Georgia, Italy, the Republic of Moldova, Portugal and Greece**);
- ▶ it has not been established that work performed on a public holiday is adequately compensated (**France, Serbia and Greece**);
- ▶ the right of all workers to public holidays with pay is not guaranteed (**United Kingdom**).

Article 2§3 guarantees the right to a minimum of four weeks (or 20 working days) annual holiday with pay.

As there were no targeted questions on **Article 2§3** issues during this reference cycle, the ECSR focused its assessment on States Parties for which the previous finding was one of non-conformity, deferral or conformity pending receipt of the information requested.

The ECSR examined **29 countries**: Germany, Spain, the United Kingdom, Luxembourg, Albania, Andorra, Armenia, Austria, Belgium, Bulgaria, Bosnia and Herzegovina, Estonia, Finland, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, the Republic of Moldova, North Macedonia, Malta, Montenegro, Poland, Portugal, Romania, Serbia and the Slovak Republic.

In 19 cases, the ECSR considered that the situation was in conformity (**Andorra, Austria, Armenia, Bulgaria, Estonia, Finland, France, Italy, Latvia, Lithuania, Malta, the Republic of Moldova, North Macedonia, Portugal, Serbia, Slovak Republic, Germany, Poland and the United Kingdom**).

For **Luxembourg**, the Committee could not assess the situation due to a lack of information.

In seven cases the ECSR considered that the situation was not in conformity with this provision of the Charter (**Albania, Belgium, Bosnia and Herzegovina, Greece, Hungary, Ireland and Spain**).

Examples of grounds for non-conformity include:

- ▶ employees may relinquish annual leave in return for increased remuneration (**Albania and Greece**);
- ▶ employees' right to take at least two weeks of uninterrupted holiday during the year the holidays fall due is not sufficiently guaranteed (**Albania and Hungary**);
- ▶ workers who suffer from illness or injury while on holiday are not entitled to take the days lost at another time (**Greece and Belgium**);
- ▶ the law allows all annual leave to be carried over to the following year (**Ireland**);
- ▶ not all employees have the right to take at least two weeks of uninterrupted holiday during the year (**Spain**).

Article 2§4 deals with the issue of eliminating the risks inherent in hazardous or unhealthy occupations and, where such risks have not yet been eliminated or sufficiently reduced, ensuring that workers employed in such occupations have either reduced working hours or additional paid holidays. The 1961 Charter was drafted at a time when working hours were longer and occupational health and safety policies

were not primarily aimed at preventing and eliminating risk but at compensating for that risk. Since then, weekly and daily working hours have generally decreased and, above all, prevention has become the priority (most often in the form of reducing the duration of exposure to the minimum that is deemed safe for workers' health). The revised Charter reflects this development by providing for two parts of Article 2§4: one obliging States Parties to take the necessary measures to eliminate risks and the other requiring them to take compensatory measures in the event of residual risks.

It follows that the structure of conclusions prepared by the ECSR under this article is divided into two sections:

1. Elimination or reduction of risks
2. Measures taken in case of residual risks

The ECSR had also asked whether measures related to the Covid-19 pandemic had been adopted during the reference period. A third section therefore deals with this issue, which has not been assessed in terms of conformity with the Charter.

Since there were no targeted questions on Article 2§4 issues during this reference cycle, the ECSR focused its assessment on States Parties for which the previous finding was one of non-conformity, deferral or conformity pending receipt of the information requested.

The ECSR examined 20 countries under the Revised Charter and the Charter of 1961 in respect of this article. There were three findings of conformity:

- ▶ Simple: **Andorra**
- ▶ Pending receipt of the information requested: **Latvia** and the **Slovak Republic**

There were nine conclusions of non-conformity:

- ▶ **Luxembourg** on the ground that workers exposed to tasks involving residual health risks are not entitled to appropriate compensation measures. This was also the case in **the United Kingdom**;
- ▶ **France** on the ground that it has not been established that all workers exposed to residual risks are entitled to adequate compensatory measures (reduced working hours, additional leave or similar measures). The same ground also arose regarding **Portugal and Greece** in relation to workers in the mining sector.

In the remaining conclusions, the ECSR found that conformity could not be established:

- ▶ **Bosnia and Herzegovina** on the ground that it has not been established that all workers exposed to residual risks are entitled to adequate compensatory measures (reduced working hours, additional leave or similar measures);
- ▶ **Italy** on the grounds, first, that it has not been established that the risks inherent to dangerous or unhealthy occupations have been sufficiently eliminated or reduced and, second, that not all workers performing dangerous or unhealthy work are entitled to appropriate compensation measures, such as reduced working hours or additional paid leave;
- ▶ the **Republic of Moldova** on the ground that it has not been established that risks are reduced or eliminated for workers performing dangerous or unhealthy tasks;

- ▶ **Spain** on the ground that it has not been established that all workers performing dangerous or unhealthy work are entitled to appropriate compensation measures, such as reduced working hours or additional paid leave.

Article 255 concerns weekly rest, which may be carried over to the following week, it being understood that twelve consecutive working days before entitlement to two days of rest are a maximum.

There were no targeted questions in respect of Article 255 and therefore previous conclusions of conformity were not reviewed.

The ECSR examined **30 countries** under the Revised Charter and the Charter of 1961 which were the subject of the conclusions under this article.

The ECSR considered that the situation was in conformity in four cases (**Germany, Georgia, Italy and Portugal**). It decided to defer one conclusion (**Latvia**).

In seven cases, the ECSR considered that the situation was not in conformity:

- ▶ on the ground that it has not been established that there are sufficient safeguards to prevent all workers from working for more than 12 consecutive days without a rest period (**Bosnia and Herzegovina**);
- ▶ on the grounds that, first, on-call periods occurring on Sunday are wrongly regarded as rest periods and that, second, it has not been established that the right to a weekly rest period is sufficiently guaranteed (**France**);
- ▶ on the ground that domestic workers are not covered by the legislation guaranteeing a weekly rest period (**Greece**);
- ▶ on the ground that there are insufficient safeguards to prevent workers from working for more than twelve consecutive days before being granted a rest period (**Hungary**);
- ▶ on the ground that weekly rest days may be postponed over a period exceeding twelve successive working days (**North Macedonia**);
- ▶ on the ground that there are insufficient safeguards to prevent workers from working for more than twelve consecutive days before being granted a rest period (**the Slovak Republic**);
- ▶ on the ground that there are insufficient safeguards to prevent workers from working for more than twelve consecutive days without a rest period (**the United Kingdom**).

Article 256 of the Charter guarantees the right of workers to essential written information when starting employment.

As there were no targeted questions for Article 256, only States Parties in relation to which the previous conclusion had been one of non-conformity, deferral or conformity pending receipt of the information requested were required to provide information for this provision in the current reporting cycle.

The ESCR also asked States Parties to provide information concerning any special arrangements related to the pandemic or changes to work arrangements following the pandemic, which come within the scope of Article 256.

Of the 25 situations examined during the 2022 monitoring cycle, the ECSR adopted 20 conclusions of conformity, two conclusions of non-conformity, and three conclusions of deferral.

The grounds of non-conformity concerned the absence of certain elements of information from the employment contract or other document, such as the length of the notice period in the case of termination of contract in **Armenia**, or the amount of paid leave in **Serbia**.

Article 2§7 of the Charter guarantees the right of workers performing night work to benefit from measures which take account of the special nature of night work.

As there were no targeted questions for Article 2§7, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of the information requested were required to provide information in relation to this provision in the current reporting cycle.

The ECSR also asked States Parties to provide information concerning any special arrangements related to the pandemic or changes to work arrangements following the pandemic, coming within the scope of Article 2§7.

Of the 23 situations examined during the 2022 monitoring cycle, the ECSR adopted 14 conclusions of conformity, seven conclusions of non-conformity, and two conclusions of deferral.

The grounds of non-conformity concerned the absence of certain measures which take account of the special nature of night work, such as providing for initial and/or regular medical examinations (**Albania, Andorra, Bosnia and Herzegovina and Georgia**), possibilities of transfer to daytime work (**Albania**), consultation with the workers' representatives (**Ireland, Italy and North Macedonia**), or shortcomings in legal definitions of the concepts of "night worker" and "night work" (**Bosnia and Herzegovina**).

Article 4 – The right to a fair remuneration

Article 4§1 of the Charter guarantees the right to remuneration such as will give workers and their families a decent standard of living. It is the ECSR's case law that, in order to ensure a decent standard of living, the minimum net wage or the lowest net wages paid must be above a minimum threshold, set at 50% of the net average wage. There is a presumed conformity when the net lowest wages paid are above 60% of the net average wage, whereas if these wages are between 50% and 60% of the net average wage, it is for the State Party to show that they ensure a decent standard of living. Relatively few States Parties have accepted this provision of the Charter.

The ECSR found that even if some States had made progress by raising their minimum statutory wages, it did not reach a conclusion of conformity as regards the 19 national situations that it examined in this reporting cycle. In the case of 11 States, the ECSR found that the statutory minimum wage or the lowest wages fixed by collective agreements were too low in comparison with the average wage and therefore, did not ensure a decent standard of living. In other cases (e.g. **France, Italy, Spain and Albania**), the ECSR considered that the information contained in the national report

did not provide sufficient information for it to establish that the minimum wage was fair. In other cases, where the ECSR had previously found (in 2018) that the situation was in conformity, it noted that the minimum wage now falls below the threshold that it had established (**Luxembourg and Austria**). As regards Austria, however, the ECSR noted a positive development which was that the statutory minimum wage had been applied across the board since 2021.

The ECSR also addressed targeted questions to States in relation to workers in atypical employment, such as those working in the gig economy or platform economy. The ECSR's conclusions focus in particular on workers employed in emerging arrangements, such as the gig economy or the platform economy, who are incorrectly classified as self-employed and, therefore, do not have access to applicable labour and social protection rights. As a result of this misclassification, such persons cannot enjoy the rights and protection to which they are entitled as workers. These rights include the right to a minimum wage. In relation to Covid-19, the ECSR asked whether financial support was provided for workers through furlough schemes throughout the period of partial or full suspension of activities due to the pandemic.

By accepting **Article 452** of the Charter, States Parties recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases.

With regard to Covid-19, States Parties were asked to explain the impact of the Covid-19 pandemic on the right to a fair remuneration as regards overtime and to provide information on measures taken to protect and fulfil this right. The ECSR asked for specific information on the enjoyment of the right to a fair remuneration/compensation for overtime for medical staff during the pandemic and for an explanation of how the matter of overtime and working hours was addressed in respect of teleworking.

Of the 28 conclusions under Article 452 of the Charter, the ECSR considered that the situation was in conformity with the requirements of this provision in 13 cases (**Andorra, Armenia, Austria, Bulgaria, Estonia, Germany, Italy, Lithuania, Luxembourg, Montenegro, Portugal, Romania and the Slovak Republic**).

The ECSR deferred its conclusion for eight countries (**Albania, Belgium, Finland, Georgia, Greece, Latvia, Malta and Serbia**).

In seven cases (**France, Ireland, North Macedonia, Poland, Spain, Türkiye and the United Kingdom**), the ECSR considered that the situation was **not in conformity** with this provision of the Charter. The grounds of non-conformity were the following:

- ▶ the right to increased remuneration for overtime work is not guaranteed to all workers (**Ireland, Poland and the United Kingdom**);
- ▶ public officials are not guaranteed an increased period of time-off in *lieu* of remuneration for overtime (**North Macedonia and Türkiye**);
- ▶ increased remuneration or an increased compensatory period of time off for overtime work is not guaranteed (**Spain**);
- ▶ overtime work performed by ordinary members of the supervision and enforcement corps of the police is not remunerated at an increased rate (**France**);

- ▶ the increase in the command bonus for senior managers only compensates for a very small number of overtime hours, while compensatory time off provided to senior police officers working overtime when performing certain duties is only equivalent in length to overtime worked (**France**).

Article 4§3 guarantees the right to equal pay without discrimination on the grounds of gender. This is one aspect of the right to equal opportunities in matters of employment guaranteed by Article 20. As a result, the case law under Article 20 *also* applies to Article 4§3.

In a targeted question, the ECSR requested information on the impact of the Covid-19 pandemic on the right of women and men to equal pay for work of equal value. In addition, it examined the situation in States Parties for which the previous finding was one of non-conformity, deferral or conformity pending receipt of the information requested.

The ECSR examined 30 countries under this article: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Bosnia and Herzegovina, Germany, Spain, Estonia, Finland, France, Georgia, Greece, Ireland, Italy, Lithuania, Latvia, Luxembourg, the Republic of Moldova, North Macedonia, Malta, Montenegro, Poland, Portugal, Romania, Serbia, the Slovak Republic and Türkiye.

The ECSR considered that the situation was in conformity with the requirements of this provision in **four cases (Austria, France, Portugal and Spain)**.

In respect of one country (**Lithuania**), conformity is pending receipt of the information requested.

The ECSR deferred its conclusions for **four countries (Albania, Estonia, Latvia and the Slovak Republic)**.

The Committee adopted **21 conclusions of non-conformity (Andorra, Armenia, Azerbaijan, Belgium, Bulgaria, Bosnia and Herzegovina, Germany, Finland, Georgia, Greece, Ireland, Italy, Luxembourg, the Republic of Moldova, North Macedonia, Malta, Montenegro, Poland, Romania, Serbia and Türkiye)**.

The main grounds of non-conformity were the following:

- ▶ pay comparisons are not possible across companies (**Andorra, Azerbaijan, Georgia, the Republic of Moldova, Poland and Romania**);
- ▶ there is no explicit guarantee of equal pay for work of equal value (**Armenia, Azerbaijan, Georgia and Türkiye**);
- ▶ there is no shift in the burden of proof in pay discrimination cases (**Armenia and Azerbaijan**);
- ▶ the obligation to ensure pay transparency is not guaranteed (**Belgium, Bosnia and Herzegovina, Bulgaria, Greece and Italy**);
- ▶ the existence of predetermined upper limit on compensation for employees who are dismissed as a result of gender discrimination (**Bulgaria, Armenia and Germany**).

By accepting **Article 4§4** of the Charter, States Parties undertake to recognise the right of all workers to a reasonable period of notice for termination of employment.

The ECSR asked a targeted question on the right of all workers to a reasonable period of notice for the termination of employment (legal framework and practice), including any specific arrangements made in response to the Covid-19 crisis and pandemic.

The ECSR decided that the question of the reasonableness of notice periods would no longer be addressed, except where notice periods were manifestly unreasonable.

Of the 24 conclusions examined under Article 4§4, the ECSR considered that the situation was in conformity with the requirements of this provision in one case (**Estonia**).

The ECSR deferred its conclusion for one country (**France**).

In 22 cases (**Albania, Andorra, Armenia, Azerbaijan, Belgium, Bulgaria, Georgia, Greece, Ireland, Italy, Latvia, Lithuania, Malta, the Republic of Moldova, Poland, Portugal, Romania, Serbia, the Slovak Republic, Spain, Türkiye and the United Kingdom**), the ECSR considered that the situation was not in conformity with this provision of the Charter.

The main grounds of non-conformity were the following:

- ▶ there is no notice period for workers on probation (**Andorra, Bulgaria, Greece, Romania, Spain, and Türkiye**) or it is manifestly unreasonable (**Azerbaijan, Latvia, Portugal, Serbia and the Slovak Republic**);
- ▶ no notice period is provided where the termination of an employment contract is due to the initiation of liquidation proceedings in situations in which the employer is a legal entity (**Georgia and Romania**), in cases of dismissal due to minor disciplinary offences (**Armenia**), or for statutory employees in the public sector (**Belgium**);
- ▶ There is no notice period in cases of dismissal due to long-term illness or occupational accident (**Poland**);
- ▶ in general, no notice periods are provided for by legislation in case of dismissal (**Serbia**).

Also, some notice periods were found to be manifestly unreasonable:

- ▶ in cases of termination of employment on account of long-term illness or disability, beyond ten years of service (**Azerbaijan**) or on account of grounds stipulated in the employment contract, in cases of more than three years of service (**Azerbaijan**);
- ▶ the notice periods applicable to workers and civil servants in general (**Ireland**), or for certain workers with up to five years of service, with five to 10 years of service, and with more than 14 years of service (**Italy**);
- ▶ a notice period of ten days, applicable to dismissals on grounds of inability to perform due to the worker's state of health and temporary incapacity, for workers with more than six months of service (**Latvia**);
- ▶ a notice period of one month, where the dismissal is based on grounds of incompetence; or caused by the reinstatement of another worker; staff reductions or liquidation of the business, for workers with more than three years of service (**Latvia**);
- ▶ notice periods applicable to workers with less than six months of service, between six months and two years of service and between three and four

years of service (**Malta**) and for workers with less than three years of service (**the United Kingdom**);

- ▶ notice periods applicable in the event of dismissal on health grounds or caused by the reinstatement of a former worker following a court order (**the Republic of Moldova**); for dismissal for physical or mental incapacity or for professional inadequacy or as a result of the removal of positions (**Romania**);
- ▶ the notice period applicable to dismissal on grounds of underperformance, for workers with more than three months of service (**Serbia**).

The other grounds for non-conformity were the following:

- ▶ collective agreements may provide for a minimum notice period of one month in the case of workers with five or more years' service (**Albania**);
- ▶ the relevant national legislation does not set out different notice periods for the termination of contracts nor severance pay proportionate to the length of service (**Georgia**);
- ▶ severance pay granted to manual workers during the reference period is inadequate (**Greece**);
- ▶ notice periods do not take into account the length of service in cases of dismissal at the employer's initiative through no fault of the worker (**Lithuania**).

Article 5 – The right to organise

Article 5 guarantees workers' and employers' freedom to organise and includes the right to form trade unions and employers' organisations, the right to join, as well as not to join, trade unions, protection against discrimination on the grounds of trade union membership, and trade union autonomy.

States were asked targeted questions on the prevalence of trade union membership, as well as regarding sectors in which workers were excluded from forming or joining organisations for the protection of their interests. In addition, the ECSR examined the situation in States for which the previous finding was one of non-conformity, deferral or conformity pending receipt of the information requested. The right of members of the armed forces to organise was also examined.

The ECSR examined **34** situations and adopted **five conclusions of conformity** pending receipt of the information requested (**Andorra, Austria, Germany, Finland and Luxembourg**) as well as **15 deferrals** (**Belgium, Bosnia and Herzegovina, Bulgaria, Estonia, Georgia, Greece, Hungary, Malta, Montenegro, Netherlands Curaçao, Netherlands Caribbean part, North Macedonia, Romania, the Slovak Republic and Spain**).

The ECSR adopted **13 conclusions of non-conformity** (**Albania, Armenia, Azerbaijan, Denmark, France, Ireland, Italy, Latvia, Lithuania, the Republic of Moldova, Poland, Serbia and the United Kingdom**),

The main grounds of non-conformity were the following:

- ▶ police officers do not enjoy the right to organise (**Albania, Armenia and the Republic of Moldova**);

- ▶ members of the armed forces do not enjoy the right to organise (**Armenia, France, Italy, Latvia, Lithuania and the United Kingdom**);
- ▶ a high number of civil servants do not enjoy the right to organise (**Albania and Poland**);
- ▶ minimum membership requirements for forming a trade union/ employer association are too high (**Armenia, Latvia and Serbia**).

Article 6 – The right to bargain collectively

Article 6§1 of the Charter concerns the obligation to promote joint consultation between workers and employers.

As there were no targeted questions for Article 6§1, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of the information requested were required to provide information for this provision in the current reporting cycle.

Of the 32 situations examined during the 2022 monitoring cycle, the ECSR adopted 20 conclusions of conformity, six conclusions of non-conformity, and six conclusions of deferral.

Most findings of non-conformity concerned the absence of joint consultative bodies in the public sector (**Albania, Armenia, Georgia and Malta**). Other grounds of non-conformity related to the absence of judicial review with respect to decisions to deny trade unions representative status (**Albania**), joint consultation not being sufficiently promoted (**Bosnia and Herzegovina**), joint consultation not covering all matters of mutual interest to workers and employers and not taking place at different levels (**Georgia**), and inadequate criteria for determining representative status (**Portugal**).

Article 6§2 of the Charter concerns the obligation to promote, where necessary and appropriate, machinery for voluntary negotiations between employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

As there were no targeted questions for Article 6§2, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of the information requested were required to provide information for this provision in the current reporting cycle.

In the last cycle (Conclusions 2018), the ESCR included a general question under Article 6§2 asking States to provide information on the measures taken or planned to guarantee the right to collective bargaining for self-employed workers and other workers falling outside the usual definition of dependent employee. As most States Parties failed to answer this question, the ESCR reiterated it.

The ESCR asked States Parties to provide information specific measures taken during the pandemic to ensure the respect of the right to bargain collectively.

Of the 33 situations examined during the 2022 monitoring cycle, the ECSR adopted 13 conclusions of conformity, 17 conclusions of non-conformity, and three conclusions of deferral.

Most findings of non-conformity concerned the insufficient promotion of collective bargaining (**Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Estonia, Georgia, Hungary, Lithuania and Romania**). Other grounds of non-conformity concerned the fact that employers may unilaterally disregard a collective agreement (**Georgia and Spain**) or that the right to collective bargaining of behalf of certain categories of workers is unduly restricted (**Albania, Denmark, France, Italy and Malta**).

Under the terms of **Article 6§3** of the Charter, States must institute conciliation and arbitration procedures to facilitate the settlement of labour disputes, in the private and public sectors. These procedures may be established by legislation, by collective agreements or by practice.

For this review cycle, there was no targeted question concerning Article 6§3. For this reason, only those States for which the previous conclusion had been one of non-compliance, deferral or compliance pending receipt of the information requested had to provide information for this provision (i.e. about half of the States).

The ECSR examined 33 national situations of which 19 were found to be in conformity. There were five deferrals pending receipt of the information requested.

In **eight cases**²⁰, the ECSR concluded that the national situations were **not in conformity**. The most frequent reason for non-conformity was the compulsory recourse to arbitration for the settlement of labour disputes in the framework of collective bargaining (arbitration must be voluntary, according to the Committee's case law) (**Albania, Azerbaijan, Malta and Portugal**).

The other situations of non-conformity mainly concerned the absence of conciliation and/or arbitration procedures (in the private and/or public sector) to facilitate the settlement of labour disputes in the framework of collective bargaining.

Article 6§4 guarantees the right of workers and employers to bargain collectively, including the right to strike in the event of conflicts concerning the negotiations of a collective agreement (conclusion or amendment).

For this review cycle, particular attention was paid to the right to strike of members of the police and any restrictions on this right. In order to have an overview, the Committee had asked States, in its General Introduction to the Conclusions 2018, to provide information on this subject in the next report.

The ECSR examined 29 country situations, of which 24 were found not to be in conformity. Three situations were found to be in conformity pending additional information (Belgium, Finland and Italy) and two situations were deferred pending the requested information (Greece and the Caribbean part of the Netherlands).

Excessive restrictions on the right to strike are the most frequent reason for non-conformity (some 20 findings of non-conformity). These situations mainly concern

20. Albania, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Italy, Malta, Moldova and Portugal.

States where the range of sectors in which the right to strike can be restricted is too wide and/or these restrictions are too extensive (e.g. **Armenia, Azerbaijan, Bosnia and Herzegovina, Republic of Moldova, Montenegro, Serbia**), and States where the right to strike is prohibited in certain sectors (e.g. **Albania**) or not recognised for certain categories of persons, e.g. civil servants (**Azerbaijan, Estonia, Germany**) and members of the police.

With regard to the *right to strike of members of the police*, the Committee was not able to examine the situation for all States because the vast majority of States did not reply (or replied incompletely) to the question posed in the General Introduction to the Conclusions 2018. However, on the basis of the information available, the situation appears unsatisfactory. The Committee concluded that there were 12 situations of non-conformity on the grounds, either that members of the police services do not have the right to strike (**Armenia, Georgia, Germany, Hungary, Ireland, Latvia, Lithuania, Malta, Romania, Spain**) or that the restrictions on the right to strike of members of the police are too extensive (**North Macedonia, Montenegro**).

The other main reasons for non-conformity were:

- ▶ the groups entitled to bargain collectively are too small, e.g. the percentage of workers required in order to be able to take strike action is too high or the right to strike is reserved only for certain trade unions (**Armenia, France, Germany, Hungary, Ireland, Montenegro, Portugal, Romania**);
- ▶ the objectives of collective action are too limited, e.g. collective action is limited to conflicts between workers and their direct employer (**UK**) or strikes are only allowed if they aim at the conclusion of a collective agreement (**Germany**);
- ▶ the consequences of strikes are excessive, e.g. workers can be dismissed for taking part in a strike (**Ireland, Malta** and **UK**) or the deductions from the wage of strikers can be higher than the wage corresponding to the period of the strike (**France**);
- ▶ the procedural requirements are excessive (obligation to announce the duration of a strike before it starts, **Bulgaria**).

Article 21 – The right to information and consultation

Article 21 of the Charter guarantees the right of workers to be regularly informed concerning the economic and financial situation of the undertaking employing them, and to be consulted in good time on proposed decisions which could substantially affect their interests, particularly those decisions which could have an important impact on the employment situation in the undertaking.

The ECSR examined 21 national situations in 2022, 12 of which were found to be in conformity and five not in conformity. The ECSR deferred its position in respect of four national situations.

With regard to this provision, the ECSR had put a targeted question to all States on the protection of the right to information and consultation during the Covid-19 pandemic. States were requested to provide information on specific measures taken during the pandemic to ensure the respect of this right, with specific reference to the situation and arrangements in the sectors of activity hit worst by the crisis, whether because of the impossibility of continuing their activity or because of the need of

extensive use of remote working or telework, or because of their front-line nature such as healthcare, law enforcement, transport, the food sector, retail and other retail and other essential services.

With regard to Article 21, four out of five situations of non-conformity resulted from a repeated lack of information. In particular, the ECSR held that it had not been established that all workers enjoy the right to information and consultation and that legal remedies were available to workers in the event of infringements of their right to be informed and consulted (**Albania, Bosnia and Herzegovina, Serbia and Türkiye**). In one situation, the ECSR concluded that the situation was not in conformity on the ground that some employees are excluded from the calculation of staff numbers which is carried out to determine the minimum thresholds beyond which staff representative bodies must be set up to ensure the information and consultation of workers (**France**).

Two deferrals were due to States' failure to reply to the ECSR's previous questions (**Hungary and the Republic of Moldova**). The ECSR has deferred its conclusion in one situation, in which a law had been introduced during the pandemic, allowing employers to introduce measures for the whole duration of the crisis without consultations with the trade unions. The ECSR has requested more explanations on the scope and impact of these measures (**Bulgaria**). Similarly, in another case, it requested further clarifications on the situation in which a period of notification of collective redundancy was shortened in the crisis period (**Latvia**).

Article 22 – The right to take part in the determination and improvement of working conditions

Article 22 of the Charter requires States Parties to adopt or encourage measures to enable workers to contribute to the determination and improvement of working conditions, work organisation and working environment, the protection of health and safety in the undertaking, the organisation of social activities in the undertaking, and the supervision of these matters. All of these matters are equally vital to the maintenance of a healthy and productive working environment which respects employees' human rights.

The ECSR examined 20 national situations in 2022, 11 of which were found to be in conformity and six not in conformity. The ECSR deferred its position in respect of three situations.

With regard to this provision, the ECSR had put a targeted question to all States on the protection of the right to participate in shaping and improving the working environment during the Covid-19 pandemic. States were requested to provide information on specific measures taken during the pandemic to ensure respect of this right, with specific reference to the situation and arrangements in the sectors of activity hit worst by the crisis.

In three countries, the situation was found not to be in conformity with the Charter (**Azerbaijan, Bosnia and Herzegovina, and Serbia**) because employees are not granted an effective right to participate in the decision-making process within the undertaking with regard to working conditions, work organisation and the working

environment. Further legal remedies are not available to workers in the event of infringements of this right.

The ECSR found two situations of non-conformity which resulted from a failure to provide information requested when the Committee had previously deferred its conclusion (**Hungary and Türkiye**).

Further deferrals were due to a lack of reply to the ECSR's previous questions (**Ireland, Spain and France**).

Article 26 – The right to dignity at work

Under Article 26 of the Charter, all workers have the right to dignity at work. By accepting Article 26 of the Charter, States Parties undertake, in consultation with employers' and workers' organisations, to protect workers from sexual harassment (Article 26§1) and moral (psychological) harassment (Article 26§2), by taking appropriate preventive and remedial measures.

During 2022, the ECSR examined the information provided by States in response to targeted questions, as well as, where applicable, previous conclusions of non-conformity, deferrals or pending receipt of the information requested.

The ECSR welcomed information on awareness-raising and prevention campaigns, as well as on action taken to ensure that the right to dignity at work is fully respected in practice. The ECSR asked for information on the regulatory framework and any recent changes introduced to combat harassment and sexual abuse in the context of work or employment relations. It asked whether any limits apply to the compensation that might be awarded to the victim of sexual and moral (psychological) harassment for moral and material damages. Lastly, the ECSR asked for information on specific measures taken during the pandemic to protect the right to dignity in the workplace and, notably, as regards sexual and moral harassment. The ECSR welcomed specific information about categories of workers in a situation of enhanced risk, such as night workers, home and domestic workers, store workers, medical staff, and other frontline workers.

In respect of **Article 26§1**, of the 23 situations examined in 2022, the ECSR considered that the situation was in conformity in six cases (**Estonia, France, Greece, Ireland, Italy and Portugal**).

The ECSR deferred its conclusion in respect of seven countries (**Andorra, Austria, Belgium, Bulgaria, Latvia, the Republic of Moldova and North Macedonia**).

In 10 cases (**Albania, Azerbaijan, Finland, Georgia, Lithuania, Malta, Montenegro, Serbia, the Slovak Republic and Türkiye**), the ECSR considered that the situation was not in conformity with this provision of the Charter. The grounds of non-conformity were the following:

- ▶ it has not been established that there is adequate prevention of sexual harassment in relation to work (**Azerbaijan, Serbia and Türkiye**);
- ▶ it has not been established that employers' and workers' organisations are consulted in the promotion of awareness, information and prevention of sexual harassment in the workplace or in relation to work (**Türkiye**);

- ▶ the legislative framework does not provide for a shift in the burden of proof in cases of sexual harassment (**Azerbaijan**);
- ▶ the existing framework in respect of employers' liability does not provide for sufficient and effective remedies in cases of sexual harassment when third parties are involved (**Finland, Georgia and Azerbaijan**);
- ▶ it has not been established that, in relation to employee protection, there are sufficient and effective remedies against sexual harassment in the workplace or in relation to work (**Albania and Azerbaijan**);
- ▶ victims of sexual harassment are not guaranteed sufficient and effective remedies against sexual harassment in relation to work (**the Slovak Republic**);
- ▶ the existing framework in respect of employers' liability does not provide for sufficient and effective remedies against sexual harassment in relation to work (**Lithuania**);
- ▶ it has not been established that appropriate and effective redress (compensation and reinstatement) is guaranteed in cases of sexual harassment (**Azerbaijan, Malta, Montenegro, Serbia and the Slovak Republic**);
- ▶ the law does not guarantee the right to reinstatement to employees who have been unfairly dismissed or have been pressured to resign for reasons related to sexual harassment (**Finland**).

In respect of **Article 26S2**, of the 21 situations examined in 2022, the ECSR considered that the situation was in conformity with the requirements of this provision in five cases (**Estonia, France, Ireland, Italy and Portugal**).

The ECSR deferred its conclusion in respect of eight countries (**Andorra, Belgium, Bulgaria, Greece, Latvia, Republic of Moldova, North Macedonia and Türkiye**)

In eight cases (**Albania, Azerbaijan, Finland, Georgia, Lithuania, Malta, Serbia and the Slovak Republic**), the ECSR considered that the situation was not in conformity with this provision of the Charter. The grounds of non-conformity were the following:

- ▶ it has not been established that there is adequate prevention of moral (psychological) harassment in relation to work (**Albania, Azerbaijan, and the Slovak Republic**);
- ▶ it has not been established that, in relation to the employer's responsibility, there are sufficient and effective remedies against moral (psychological) harassment in the workplace or in relation to work (**Malta**);
- ▶ the existing framework in respect of employers' liability does not provide for sufficient and effective remedies against moral (psychological) harassment in relation to work (**Lithuania**);
- ▶ the Labour Code does not provide for a shift in the burden of proof in cases of moral (psychological) harassment (**Azerbaijan**);
- ▶ it has not been established that, in relation to employees' protection, there are sufficient and effective remedies against moral (psychological) harassment in the workplace or in relation to work (**Azerbaijan**);
- ▶ the existing framework in respect of employers' liability does not provide for sufficient and effective remedies in cases of moral (psychological) harassment when third parties are involved (**Finland, Georgia, and Azerbaijan**);

- ▶ it has not been established that appropriate and effective redress (compensation and reinstatement) is guaranteed in cases of moral (psychological) harassment (**Malta, Serbia, and the Slovak Republic**);
- ▶ appropriate and effective redress (compensation and reinstatement) is not guaranteed in cases of moral (psychological) harassment in relation to work (**Azerbaijan**);
- ▶ the law does not guarantee the right to reinstatement to employees who have been unfairly dismissed or have been pressured to resign for reasons related to moral (psychological) harassment (**Finland**).

The ECSR also adopted a **Statement of interpretation on online harassment related to work**, stressing that the rights and obligations deriving from Article 26 of the Charter apply to incidents of online harassment (see General Introduction to Conclusions 2022).

Article 28 – The right of workers’ representatives to protection in the undertaking and facilities to be accorded to them

This provision guarantees the effective exercise of the right of workers’ representatives to carry out their functions. To this end, it is established that workers’ representatives must enjoy effective protection against acts prejudicial to them, including dismissal based on their status. They must also be afforded the necessary facilities to carry out their functions promptly and efficiently. This provision complements Article 5, which sets out similar rights in respect of trade union representatives.

In 2022, the ECSR examined the situation regarding Article 28 in 24 countries. The ECSR examined the protection granted to workers’ and trade union representatives against dismissals and against prejudicial acts other than dismissal (e.g., denial of certain benefits, training opportunities, promotions or transfers; discrimination when implementing lay-offs or reassignment retirement options); being subjected to a reduction in shifts; or any taunts or abuse. In order to ensure that such protection is effective, the Charter requires that it extends for a reasonable period (at least six months) after the expiry of the representatives’ mandate.

The ECSR also examined the situation in countries concerned with regard to the facilities granted to workers’ and trade union representatives to allow them to carry out their functions effectively. Those facilities include, for instance, granting paid time off to represent employees, financial contributions to work councils, the use of premises and materials for work councils,

In 2022, out of 24 countries whose situation was examined by the ECSR, there were 13 countries with non-conformity conclusions (**Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina, Bulgaria, Finland, the Republic of Moldova, Montenegro, North Macedonia, Romania, the Slovak Republic and Türkiye**), six countries with deferral conclusions (**Belgium, Greece, Ireland, Latvia, Malta and Serbia**) and five countries with conformity conclusions (**Estonia, France, Italy, Lithuania and Portugal**).

The non-conformity conclusions were based on:

- ▶ the protection granted to workers' and trade union representatives is not extended for a reasonable period after the end of their mandate;
- ▶ a lack of sufficient protection against prejudicial acts short of dismissal;
- ▶ a lack of legal remedies to allow workers' and trade union representatives to contest their dismissal and other prejudicial acts short of dismissal;
- ▶ a lack of legal provision for the reinstatement of workers' and trade union representatives unlawfully dismissed;
- ▶ it not being established that facilities granted to workers' and trade union representatives are adequate;
- ▶ it not being established that facilities identical to those afforded to trade union representatives are made available to other workers' representatives.

The most common ground of non-conformity was that the protection granted to workers' and trade union representatives is not extended for a reasonable period after the end of their mandate (nine countries) (**Albania, Armenia, Austria, Azerbaijan, Bosnia and Herzegovina (Brcko District), Bulgaria, North Macedonia, Romania and Türkiye**). In many countries, the protection is limited to the duration of the mandate of workers' or trade union representatives and is not extended at all after the expiry of their mandate. In **Romania**, the new Law on Social Dialogue which recently came into force did not extend the protection beyond the end of the mandate of workers' and trade union representatives and did not bring the situation into conformity with the Charter. Concerning **Austria**, the period of three months beyond the mandate during which the protection is afforded is not reasonable and hence is not in conformity with the Charter.

Concerning the protection of workers against acts short of dismissal, in some States this protection is not afforded outside the period of collective bargaining activity (**Azerbaijan**); or workers' representatives other than trade union representatives are not granted such protection (**the Republic of Moldova and Montenegro**).

In some countries, legal remedies available to workers' representatives to contest their dismissals and other prejudicial acts were deemed to be ineffective. Sometimes this is due to a total lack of legal remedies to contest dismissals (**Bosnia and Herzegovina, Brcko District**), and sometimes it is due to the inadequate compensation afforded in cases of unlawful dismissal (**Bulgaria and the Slovak Republic**).

In one conclusion (**Finland**), the non-conformity was due to the lack of possibility of reinstatement in case of unlawful dismissal. The ECSR reiterated its case-law that ordering reinstatement is an important element of the protection afforded to workers' representatives against unlawful dismissals.

The inadequacy of the facilities granted to workers and trade union representatives was a ground of non-conformity in respect of eight countries. In some countries, this was due to a total lack of information in this respect (**Albania, Bosnia and Herzegovina, Brcko District, the Republic of Moldova, Montenegro and North Macedonia**). In other States, it was due to insufficient information being provided (**Armenia, Romania and Türkiye**), as it did not cover facilities such as access to

premises, use of materials, distribution of information, support in terms of benefits, and training costs.

In conclusion, in the majority of the countries examined (13 out of 24), the situation is not in conformity with Article 28, with the most common problem being the lack of extension of the protection afforded for a reasonable period after the end of mandate.

The ECSR noted a few positive developments in some countries, although those positive developments were not always sufficient to result in a conclusion of conformity.

Article 29 – The right to information and consultation in collective redundancy procedures

Article 29 addresses the right of workers to be informed and consulted in situations of collective redundancies. To this end, it establishes that States Parties must ensure that employers inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences.

Besides the consultation procedure, States Parties must guarantee that the right of workers' representatives to be informed can be effectively exercised. Therefore, when employers fail to comply with their obligations, there should be some possibility of recourse to administrative or judicial proceedings before the redundancies are made to ensure that they are not put into effect before the consultation requirement is met.

Provision must be made for sanctions after the event, and these must be effective, i.e., a sufficient deterrent for employers.

In 2022, the ECSR examined the situation regarding Article 29 of the Charter in 22 countries.

Amongst the 22 countries, four countries were found to be in non-conformity (**Azerbaijan, Georgia, North Macedonia and Serbia**). The conclusion was deferred for five countries (**Albania, Bulgaria, Greece, Portugal and the Slovak Republic**). 13 countries were found to be in conformity.

The non-conformity conclusions were all based on the absence of preventive measures and sanctions in domestic law such as to ensure that redundancies do not take effect before employers' obligation to inform and to consult workers has been fulfilled.

The five conclusions of deferral are based on the absence of sufficient information as regards applicable sanctions and/or preventive measures. Concerning **Albania, Bulgaria and Portugal**, the State reports did not provide any answer to the questions previously asked by the ECSR as to whether there are any preventive measures in place to ensure that employers do not fail in their duty to consult the employers' representatives in the event of collective redundancies. The ECSR therefore reiterated its questions and deferred its conclusions in respect of these countries.

In relation to the **Slovak Republic**, the report did not provide any answer with regard to preventative measures taken aiming at ensuring that redundancies are not put into effect before the consultation requirement is met. Third party submissions indicated that sanctions in cases of breach of the obligation to consult prior to the

redundancies taking place are not efficiently applied. The ECSR therefore requested further information in this respect and deferred its conclusion.

With regard to **Greece**, it was the first time that the ECSR examined the situation regarding Article 29. The questions raised by the ECSR sought clarifications concerning the redundancy procedures and on the existence of preventive measures, as well as on sanctions for employers who fail to fulfil the information and consultation duties.

In 13 countries, the situation is in conformity with the Charter. Concerning **Latvia and Montenegro**, the previous conclusions were a deferral pending receipt of the information requested. In view of the information submitted in the current reports, it was concluded that the situation in these countries was in conformity with Article 29. In the other 11 countries, the ECSR maintained its previous conclusions that the situations were in conformity with the Charter. In regard to **Belgium and Lithuania**, the ECSR asked for additional and updated information on preventive measures and applicable sanctions in cases where an employer fails to notify, inform and consult about planned redundancies.

In the majority of the countries under examination, the national situations were in conformity with Article 29. The most important issues highlighted, in countries with a non-conformity conclusion, were the absence of preventive measures aimed at ensuring that redundancies do not take effect before employers' obligation to inform and to consult has been fulfilled (such as recourse to administrative and judicial proceedings) and the absence of effective sanctions applicable in cases where employers fail to fulfil their obligations under Article 29.

4.3. Examples of progress in the application of the European Social Charter

When preparing Conclusions 2022/XXII-3, the ECSR noted a number of positive developments in the application of the Charter, either through the adoption of new legislation or changes in practices in the States Parties or, in some cases, on the basis of new information clarifying the situation as regards issues raised in previous examinations (thereby reducing the number of conclusions deferred for lack of information).

The ECSR welcomed these developments which contribute to a better implementation of the Charter at national level and invited the States Parties to continue their efforts with a view to ensuring the concrete and effective implementation of all the rights of the Charter.

This chapter contains a non-exhaustive list of examples of progress by country and provision with respect to countries bound by the 1961 Charter and countries bound by the Revised Charter of 1996.

Article 2§1

Armenia

On 29 April 2020, Law No. HO-237-N was adopted, whereby the Code on Administrative Offences of the Republic of Armenia was supplemented by Article 230.1. Pursuant

to this provision, the Inspection Body was granted the power to investigate cases of administrative offences and to impose administrative penalties.

Latvia

It appears from the data provided that, between 2017 and 2020, the number of violations concerning the organisation of working time decreased slightly.

Article 2§2

The Slovak Republic

As of the beginning of 2019, the compensation for work on public holidays has been increased to 100% of the employee's average wage for everyone. This applies to all sectors of the economy (in both the private and public sectors), all categories of workers and for all types of employment contracts. Each worker performing work during public holidays receives their usual wage and a bonus of at least 100%. The Labour Code also allows for higher compensation on the basis of collective agreements between the social partners.

Article 2§4

The Republic of Moldova

Article 118(3) of the Labour Code has been revised by Law No. 157 of 2017 in order to provide that, in the case of postponement, at least 14 calendar days of paid annual leave shall be granted to the worker concerned, while the remaining part shall be granted before the end of the following year.

Luxembourg

The Law of 8 April 2018 amending the Labour Code introduced a new provision. New Article L. 233-8 provides that "leave may be taken in a single period, unless the needs of the department or the justified wishes of the employee require that it be divided up, in which case one of the fractions of the period of leave taken must be at least two calendar weeks" (previously 12 consecutive days).

Article 2§7

The Republic of Moldova

The ESCR took note of new legislation adopted in the **Republic of Moldova** that introduced compulsory medical examinations prior to being assigned to night work.

Article 4§2

Armenia

The bonuses envisaged for overtime work and for work performed on rest days and non-working days prescribed by law are irreplaceable guarantees defined in the Labour Code. Thus, if work which is performed on rest days and non-working public holidays and commemoration days defined by law also constitutes overtime work for the workers, the employer shall pay the worker both the bonuses prescribed for overtime work and for work performed on those days. Also, where, upon the consent of the parties in question, the bonus for work performed on non-working

public holidays and commemoration days defined by law takes the form of rest time, the worker shall be granted both the additional rest time as compensation for work performed on rest days and non-working days of holidays and commemoration days, and the bonus envisaged for overtime work.

Estonia

Article 44 of the Employment Contracts Act (ECA) provides for a mixed system of compensation for overtime. Overtime may be compensated in two ways – with money or with time off. According to Article 44(6) of the ECA, employers must compensate for overtime by time off equal to the overtime worked, unless it has been agreed that overtime is compensated for in money. Article 44(7) of the ECA provides that if overtime is compensated in money, it must be done at 1.5 times the wage. When time off is granted instead of monetary compensation, this time off cannot be deducted from standard rest periods and must be paid as working hours. Thus, the employer has to pay the regular wage for overtime and give time off equal to the overtime worked.

Lithuania

Article 144 of the new Labour Code, which entered into force on 1 July 2017, states that work performed on days off and holidays, at night or during overtime by a single-person management body of a legal person has to be recorded but is not paid for unless the parties agree otherwise in the employment contract. Work performed on days off and holidays, at night or during overtime by the managerial employees of a legal person must be recorded has to be paid for in the same way as for work done according to the usual working time arrangements unless the parties agree otherwise in the employment contract. The Law on the Remuneration of Employees of State and Municipal Institutions of the Republic of Lithuania sets out specific rules on remuneration for overtime for employees of budgetary institutions and for Commission²¹ Members. In accordance with the Law on the Civil Service, civil servants are also paid for overtime.

Article 2.4

North Macedonia

The legislation in **North Macedonia** changed in 2021 to guarantee a day of weekly rest, where possible on a Sunday and exceptionally on another day of the week. The ECSR noted that the situation has changed, but that this was outside the reference period.

Article 4§4

Belgium

The regime which allowed notice periods to be disregarded no longer applies from 1 January 2018.

21. These are multiple Commissions such as Councils, the Court of Honour of Judges, the Arbitration Court on employment matters, the Lithuanian board of science Council, etc, financed from the budget of the State and municipalities.

Estonia

The regulation and notice periods set for officials are the same as those provided for in Article 97§2 of the Employment Contracts Act (ECA). Article 97§2 ECA provides for notice periods that acknowledge a worker's length of service and that are not manifestly unreasonable.

Article 6§4

Georgia

Regarding the entitlement to call for collective action, according to Article 48 of the Labour Code, trade unions and a group of at least 20 employees have the right to call a strike.

Article 26

Estonia

Amendments were introduced to the Occupational Health and Safety Act (OHSA) in 2019 to strengthen the protection of workers against psychosocial hazards, including harassment at work, and to specify employers' obligations to prevent such psychosocial risks.

The Green Book on Mental Health was created in cooperation with the social partners. The Working Life Portal has a dedicated web page on mental health that provides useful information on psychosocial hazards for both employers and employees.

France

The definition of sexual harassment in the Labour Code was amended by Law No. 2021-1018 of 2 August 2021, and now includes the notion of "group harassment" (mobbing). Moreover, under the same Law, sexism now falls within the scope of sexual harassment.

Ireland

The Harassment, Harmful Communications and Related Offences Act 2020 ("Coco's Law") created two separate image-based criminal offences and broadened the scope of the existing offence of harassment to cover all forms of persistent communications about a person.

Italy

In 2017, amendments were made to the Code of Equal Opportunities (Legislative Decree No. 198 of 11 April 2006) with a view to strengthening the protection against retaliation for workers who take legal action for having suffered harassment or sexual harassment (new paragraph 3-bis of Article 26).

Montenegro

Under the new Labour Law (*Official Gazette of Montenegro*, No. 74/19, which entered into force on 6 January 2020), the prohibition of harassment and sexual harassment at work and in relation to work now also applies in relation to access to vocational guidance, vocational training and advanced vocational training, promotion at work

and termination of employment, as well as to other aspects of employment (Article 10(1) of the Labour Law).

North Macedonia

In October 2020, a new Law on the Prevention of and Protection against Discrimination was adopted. It defines harassment and sexual harassment (Article 10) and provides for new competences and the professionalisation of the Commission for protection against discrimination.

Portugal

Amendments were made to the Labour Code by means of Law No. 73 of 16 August 2017 and Law No. 93 of 4 September 2019 in relation to harassment practices in employment relations. These reinforce the protection of victims of harassment and persons witnessing harassment and impose the obligation on employers to have a code of conduct on harassment practices in companies with more than seven employees.

Article 28

Armenia

The ECSR noted that, according to the draft amendments to the Labour Code prepared by the Ministry of Labour and Social Affairs, workers' representatives may not be dismissed from work within six months after the expiry of their mandate without the prior consent of the workers' representative body. Moreover, with regard to facilities, the same draft law provides that workers' representatives shall be exempt from the performance of working duties and that they shall be paid two-thirds of their average hourly salary for these periods. The ECSR asked for information on the adoption of this draft law.

Lithuania

The new Labour Code, which entered into force in June 2017, establishes restrictions on the termination of employment contracts and the deterioration of employment contract conditions of workers' representatives without the consent of the head of the territorial division of the State Labour Inspectorate. These regulations aim to ensure that persons exercising workers' representation functions do not suffer discrimination or other negative consequences due to their role. The restrictions apply for the period for which the persons representing the employees are elected and for six months after the end of their term of office.

Portugal

Within the scope of the adoption of measures necessary to combat the Covid-19 pandemic, in addition to the regime of protection afforded to workers' representatives described in the report, measures were taken to strengthen the protection of workers against unlawful dismissal in the difficult economic and business environment. These include the prohibition of redundancy imposed on employers benefiting from the "simplified" lay-off and the other support measures provided for and regulated in Decree-Law no. 10-G/2020, which cover all workers, and are also applicable to workers' representatives.

Türkiye

In order to ensure that the Covid-19 pandemic was not used as an excuse for dismissal, a temporary restriction on the termination of employment contracts by employers was introduced for all workers including trade union and workers' representatives, in the Temporary Article 10 of Labour Law No. 4857.

Article 29

France

The Government deployed a protective device precisely to prevent the pandemic from leading to layoffs. The Partial long-term activity (APLD) (provided for by Decree No 2020-325 of 25 March 2020) was adopted to support economic activity under the *France Relance* plan and offers the possibility for a company – faced with a lasting reduction in its activity – to reduce the working hours of its employees, and for the employees to receive an allowance for the hours not worked in return for commitments, particularly in terms of job retention. In 2020, companies made considerable use of the partial activity scheme. This widespread recourse to partial activity has made it possible to quickly and fully cover employees unable to work, and thus to avoid their dismissal. According to the report, since the establishment of the APLD in the summer of 2020, 68 professional branch agreements were concluded, 63 of which have been extended. More than 6.9 million employees are covered by these branch agreements.

Georgia

The provisions of the Labour Code with regard to collective redundancies were amended in 2020. According to the amended provisions, if the employer plans a mass dismissal, they are obliged to start consultations with trade union or workers' representatives, within a reasonable time. Consultations should, at a minimum, include ways and means of preventing mass dismissals or reducing the number of employees to be dismissed, and the possibility of supporting laid-off employees to continue their employment or training. In addition, the employer is obliged to send a written notification to the relevant ministries including the Ministry of Labour, Health and Social Affairs, and to the employees whose employment contracts are terminated, at least 45 calendar days prior to the mass dismissal. The employer is also obliged to send a copy of the notification sent to the Ministry, to the trade union (or to the workers' representative). The mass dismissal shall take effect 45 calendar days after the notification to the Ministry.

Lithuania

Article 207 of the new Labour Code (June 2017) regulates the information and consultation procedures in the case of collective redundancy. Accordingly, prior to adopting a decision on a collective redundancy, the employer shall inform and consult the work councils. The employer shall provide the following information to the work councils in writing no later than seven working days prior to the planned start of the consultations: 1) reasons for the planned redundancy; 2) total number of employees and number of employees being made redundant, by category; 3) time limit within which employment contracts will be terminated; 4) criteria for the

selection of employees for redundancy; 5) conditions of termination of employment contracts and other important information.

Moreover, Article 209 of the new Labour Code regulates employers' liability for failure to fulfil the information and consultation requirements. In the event that the employer has violated his/her duties of information and consultation, the work council or the trade union shall be entitled to initiate a labour dispute. If the Code does not establish otherwise, the relevant labour dispute resolution body has the right to reverse the employer's decisions and require that certain actions be taken, as well as to apply the liability established in this Code or the Republic of Lithuania's Code of Administrative Offences.

The Republic of Moldova

In May 2018, the Parliament of the Republic of Moldova adopted Law No. 85 on amending and supplementing the Labour Code. The new Article 185 of this Code provides for new guarantees in cases of collective dismissals. Accordingly, in cases where measures involving collective dismissals are planned, the employer is obliged to notify, three months in advance, the employees' representatives and to enter into consultation with the employees' representative with a view to reaching an agreement. At least five working days before the consultations begin, the employer is obliged to provide to the employees concerned with all the available necessary information on the reasons of the dismissal, the number and categories of employees to be dismissed, the period during which the dismissals will take place, the criteria for selecting the employees to be dismissed and the method of calculating allowances.

4.4. Governmental Committee of the European Social Charter and the European Code of Social Security: follow-up to the Conclusions of the European Committee of Social Rights

In 2022, the Governmental Committee examined follow-up measures taken by States with respect to conclusions of non-conformity reached by the ECSR on articles of the European Social Charter relating to the thematic group "Health, social security and social protection" (Conclusions 2021).

The Governmental Committee held two meetings in 2022 (144th Meeting on 30 May-3 June 2022 and 145th Meeting on 21-25 November 2022) with Mr Joseph Faber (Luxembourg) in the Chair. At its autumn meeting, as Mr Faber ceased to represent Luxembourg, the Governmental Committee elected for the remaining term (until 31 December 2023) its new Bureau: Mr. Aongus Horgan (Ireland) as Chair; Ms. Julie Gomis (France), as Vice Chair; Ms. Yvette Kalden (Netherlands) as Vice Chair and Bureau members, Mr. Edward Buttigieg (Malta) and Ms Velga Lazdina-Zaka (Latvia).

The conclusions for Governmental Committee's examination in 2022 were:

- ▶ the right to safe and healthy working conditions (Article 3),
- ▶ the right to protection of health (Article 11),
- ▶ the right to social security (Articles 12),
- ▶ the right to social and medical assistance (Article 13),
- ▶ the right to benefit from social welfare services (Article 14),
- ▶ the right of elderly persons to social protection (Article 23/Article 4 of the 1988 Additional Protocol),
- ▶ the right to protection against poverty and social exclusion (Article 30)

Article	States concerned
RESC 3§2	ROMANIA
1961 ESC 3§1	UNITED KINGDOM
RESC 3§3	ESTONIA
RESC 3§3	TÜRKIYE
RESC 11§1	AZERBAIJAN
RESC 11§1	GEORGIA
RESC 11§1	REPUBLIC OF MOLDOVA
RESC 11§1	ROMANIA
RESC 11§2	GEORGIA
RESC 11§3	AZERBAIJAN
RESC 11§3	GEORGIA
RESC 11§3	REPUBLIC OF MOLDOVA
RESC 11§3	ROMANIA
RESC 12§1	ARMENIA
RESC 12§1	ESTONIA
RESC 12§1	GEORGIA
RESC 12§1	HUNGARY
RESC 12§1	LATVIA
RESC 12§1	MONTENEGRO
RESC 12§1	ROMANIA
RESC 12§3	ARMENIA
RESC 12§3	ROMANIA
RESC 13§1	ARMENIA
RESC 13§1	BOSNIA AND HERZEGOVINA
1961 ESC 13§1	CROATIA
1961 ESC 13§1	CZECH REPUBLIC

Article	States concerned
RESC 13§1	MONTENEGRO
RESC 13§1	ROMANIA
1961 ESC 13§1	SPAIN
1961 ESC 13§1	UNITED KINGDOM
1961 ESC 13§4	CROATIA
RESC 14	AZERBAIJAN
RESC 14	HUNGARY
RESC 14	LATVIA
1961 ESC 14	POLAND
ESC 4 of the 1988 Additional Protocol	DENMARK
RESC 23	MALTA
RESC	NETHERLANDS
RESC 23	NORWAY
RESC 30	ESTONIA

As a result of the 2022 examination, the Governmental Committee proposed 14 draft recommendations to the Committee of Ministers. 12 draft recommendations concerned Articles 3§2, 3§3, 3§4, 11§1, 11§3, 13§1, 14§1 and 23. Moreover, the Governmental Committee proposed two additional draft recommendations concerning the failure to report: one was addressed to Iceland and Germany, which had not submitted their reports to the ECSR in 2021, and the second was a draft recommendation having regard to conclusions of non-conformity based on the repeated lack of information submitted to the European Committee of Social Rights, which could not establish whether the national situation was in conformity with the Charter under Articles 3§3 (for Malta and the Republic of Moldova) Article 11§3 (for Albania, Azerbaijan and the Slovak Republic), Article 13§4 (for Türkiye) and Article 14§2 (for Bosnia and Herzegovina and Türkiye).

As regards the conclusions examined, the Governmental Committee discontinued its practice of voting warnings. During its examination, it took note of important positive developments in several States Parties and asked Governments to continue their efforts with a view to ensuring compliance with the European Social Charter, urging them to take into consideration any previous recommendations adopted by the Committee of Ministers.

The Governmental Committee also closely followed the work of the Committee of Ministers Working Party (GT-CHARTE) tasked to reflect on strengthening the effectiveness of the Charter. It prepared several reflection papers and began work on implementing the reform package adopted by the Committee of Ministers aimed at modernising the European Social Charter system (CM(2022)114-final) on 27 September 2022. In this last respect, the Governmental Committee convened a meeting of its internal working group on the reform in order to adapt its working methods and its rules of procedure to the reform package adopted by the Committee of Ministers.

5. Procedure on non-accepted provisions

5.1. Introduction

The European Social Charter is based on a ratification system, which enables States, under certain circumstances, to choose the provisions they are willing to accept as binding international legal obligations. This system is provided for by Article A of the Revised European Social Charter (Article 20 of the 1961 Charter).

It is in the spirit of the Charter for States to progressively increase their commitments, tending towards acceptance of most – if not all – provisions of the Charter, as opposed to an *à la carte* stagnancy (CM(2022)196-final). Thus, the same Article A of the Revised European Social Charter (Article 20 of the 1961 Charter) allows States, at any time subsequent to ratification of the treaty, to notify the Secretary General of their acceptance of additional articles or paragraphs.²²

Pursuant to Article 22 of the 1961 Charter, the States Parties shall send to the Secretary General, at appropriate intervals as requested by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of their ratification or approval or in a subsequent notification. The Committee of Ministers shall determine from time to time in respect of which provisions such reports shall be requested and the form of the reports to be provided.

For the first years of the Charter's existence, this procedure took the form of a traditional reporting exercise, with States submitting reports describing the situation in law and in practice in relation to the provisions concerned. These reports were then examined by the ECSR. The Committee of Ministers launched these exercises on eight occasions between 1981 and 2002.

In December 2002, the Committee of Ministers 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 “invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the States concerned” (Committee of Ministers Decision of 11 December 2002)²³. Following this decision, since 2003, the ECSR has examined – either in meetings or as part of a written procedure – the situation in law and in practice in the States concerned from the standpoint of compatibility with the non-accepted provisions of the Charter. The exercise is aimed at encouraging States to accept new provisions.

22. See Appendix 7: Number of accepted provisions by year since 1962

23. See CM/Del/Dec(2002)821/4.1 at https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016804d2532

Noting that the exercise was not yielding the expected results, the Committee of Ministers adopted a [Decision on 11 December 2019](#)²⁴, inviting “the European Committee of Social Rights to make full use of the opportunities for dialogue offered by Article 22 (non-accepted provisions) of the European Social Charter of 1961 (ETS No. 35), and to include in this exercise a dialogue with the member States that are not yet Party to the Revised Charter, with a view to encouraging them to ratify it.” In July 2022, the ECSR invited the Secretariat to henceforth make public on the Charter’s website the state reports on non-accepted provisions, in addition to the Committee’s own reports which were already being published on the website. Furthermore, in September 2022, the ECSR adopted a decision to apply the procedure on non-accepted provisions to all States Parties to either Charter, in a more sustained manner, with a view to strengthening the impact of the European Social Charter. The procedure includes the mandatory submission of written information by States Parties in accordance with a pre-established calendar, and additional bilateral meetings when it is deemed to represent an added value. The written information, submitted by the States Parties shall be made public upon its reception, and the national and international social partners, non-governmental organisations, national human rights institutions, equality bodies and other stakeholders are given the possibility to provide their comments in the subsequent three months.

A detailed table showing the accepted provisions of the European Social Charter can be found in Appendix 8.²⁵

5.2. States Parties concerned in 2022

In 2022, the procedure on non-accepted provisions concerned four States: Albania, Finland, North Macedonia and Türkiye. As travel restrictions related to the Covid-19 pandemic continued in 2022, the ECSR decided to invite these States to submit written information. In 2022, the ECSR adopted the monitoring reports on non-accepted provisions in respect of Finland and Türkiye. Albania and North Macedonia did not provide the requested reports.

Finland

Finland ratified the Revised Charter on 21 June 2002, accepting 88 of the 98 paragraphs. The Revised Charter entered into force on 1 August 2002. Finland has currently not accepted the following 10 numbered paragraphs: Article 3§§2-3, Article 4§§1 and 4, Article 7§§6 and 9, Article 8§§1, 3 and 5 and Article 19§10.

The procedure on non-accepted provisions provided for by Article 22 of the 1961 Charter was applied four times. In 2007 and 2017, the procedure was carried out in the context of meetings between the ECSR and representatives of various Finnish authorities. In 2012 and 2022, the Committee conducted the procedure by inviting the Government to provide written information.

24. See CM/Del/Dec(2019)1363/4.1c at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680993bba

25. See Appendix 8: Table of accepted provisions of the Revised European Social Charter (1996) and provisions of the 1961 European Social Charter and of the Additional Protocol of 1988

After examining the written information provided by the Government of Finland, in 2022, the ECSR considered that Article 19§10 could be accepted immediately and that there were no significant obstacles in law and in practice to the acceptance of Articles 4§1, 7§§ 6 and 9 and 8§§ 1 and 3.

As regards Articles 3§§2 and 3, the ECSR confirmed its previous opinion from 2017, that legislative changes seem to be required to bring the situation in line with the Revised Charter. However, it encouraged the Finnish Government to consider it without delay given the recent increase in new forms of self-employment nurtured by digital technologies and new business models, and also magnified by the Covid-19 pandemic.

Regarding Articles 8§5, and 4§4, the ECSR considered that legislative changes are required to bring the situation in line with the Charter and called on the Finnish Government to remove obstacles to the acceptance of these provisions.

The ECSR invited Finland to consider accepting additional provisions of the Revised Charter as soon as possible so as to consolidate the role of the Charter in guaranteeing and promoting social rights.

The next examination of the provisions not accepted by Finland will take place in 2027.

The ECSR's report can be consulted at: [Finland and the European Social Charter – Social Rights \(coe.int\)](https://www.coe.int/en/web/european-social-charter/finland-and-the-european-social-charter)²⁶.

Türkiye

Türkiye ratified the Revised Charter on 27 June 2007, accepting 29 of the 31 articles, and 91 of the 98 paragraphs. Türkiye has currently not accepted the following seven numbered articles and paragraphs: Article 2§3, Article 4§1, Article 5, and Article 6§§1-4.

The procedure on non-accepted provisions provided for by Article 22 of the 1961 Charter was applied three times, in 2013, in 2018 and in 2022.

In 2013, the procedure on the non-accepted provisions was applied in the context of a meeting between the ECSR and representatives of various Turkish ministries. In 2018 and 2022, the ECSR invited the Government to submit written information.

After examining the written information provided by the Government of Türkiye in 2022, the ECSR concluded that there do not appear to be obstacles to the acceptance by Türkiye of Article 6§§1-3 of the Charter. Regarding Article 5, it considered that more information would be needed to make a full assessment but, based on the information at its disposal, there did not seem to be obstacles to acceptance. In respect of the Articles 2§3, 4§1 and 6§4, it considered that the remaining obstacles could be overcome and it encouraged the Government to take every possible initiative to this end.

The ECSR drew attention to the importance of Articles 5 and 6, due to their unique nature: not only do they represent rights as such (freedom to organise and the right to collective bargaining), but they should also be considered as tools in order to facilitate the implementation of other rights which are enshrined in the Charter.

26. <https://www.coe.int/en/web/european-social-charter/finland-and-the-european-social-charter>

Therefore, in accepting Articles 5 and 6, Türkiye would not only grant additional rights, but would improve the implementation of existing rights. Therefore, the ECSR encouraged Türkiye to join as soon as possible the vast majority of States Parties that have accepted Articles 5 and 6.

The ECSR invited Türkiye to consider accepting additional provisions of the Revised Charter as soon as possible so as to consolidate the role of the Charter in guaranteeing and promoting social rights. It also invited Türkiye to consider accepting the Additional Protocol providing for a system of collective complaints.

The next examination of the provisions not accepted by Türkiye will take place in 2027.

The ECSR's report can be consulted at: [Türkiye and the European Social Charter – Social Rights \(coe.int\)](https://www.coe.int/en/web/european-social-charter/turkiye-and-the-european-social-charter)²⁷.

27. <https://www.coe.int/en/web/european-social-charter/turkiye-and-the-european-social-charter>

6. Strengthening the European Social Charter treaty system

Improving the implementation of social rights in Europe has been a longstanding Council of Europe objective. The various organs and entities of the Council of Europe – Committee of Ministers, Secretary General, Parliamentary Assembly, Congress of Local and Regional Authorities, Conference of International Non-Governmental Organisations – all support this objective. They consider that reinforcing the European Social Charter treaty system will contribute to achieving this objective as well as the social progress statutory aim of the Organisation.

Building on the “Turin process” for the European Social Charter²⁸ that was launched in 2014, work has been ongoing through 2017 (the Committee of Ministers asked the Steering Committee for Human Rights (CDDH) to make proposals), 2018 and 2019 (CDDH reports and proposals²⁹), followed by the Secretary General’s proposals after seeking the advice of a high level group of social rights experts³⁰ (2020-2021), leading to decisions at the 131st Session of the Committee of Ministers and the Deputies’ follow-up decisions setting up, on 7 October 2021, an *ad hoc* working party on improving the European Social Charter system (GT-CHARTE)³¹.

In the light of the proposals made by the Secretary General, and having regard also to the report submitted by the Steering Committee for Human Rights (CDDH) and the position papers adopted by the ECSR and the Governmental Committee of the European Social Charter and the European Code of Social Security (GC) the Deputies instructed the *ad hoc* working party to look into practical ways of improving:

- a. the efficiency and impact of the reporting procedure under the Social Charter while reducing the reporting burden for member States;
- b. the follow-up by the GC and the Committee of Ministers to the conclusions prepared by the ECSR on the basis of the reports submitted by States Parties;
- c. procedural aspects of the collective complaints procedure, including the follow-up by the ECSR and the Committee of Ministers of decisions on the merits of such complaints, having due regard to the competences of the ECSR.

28. [The Turin process for the European Social Charter \(coe.int\)](https://www.coe.int/turin)

29. CDDH Reports: [Protection of social rights in Europe \(coe.int\)](https://www.coe.int/cddh-reports)

30. [Report of the High Level Group of Experts on Social Rights, March 2021](https://www.coe.int/hlg-experts)

31. [GT-CHARTE – Improving the European Social Charter system \(coe.int\)](https://www.coe.int/gt-charte)

The Deputies instructed the *ad hoc* working party:

- a. to submit in good time for the preparation of the Ministerial Session in May 2022, i.e. at the latest by 30 April 2022, its proposals in relation to a., b. and c. above; and
- b. to examine subsequently the more longer-term substantive and procedural issues.

Chaired by Ambassador Panayotis Beglitis, Permanent Representative of Greece, GT-CHARTÉ held 15 meetings, three in 2021, ten in 2022 and two in the first months of 2023. To ensure that the working party – open to all delegations within the Committee of Ministers – had all necessary information, a number of delegations were accompanied by advisers or experts from their capitals. Representatives of the two organs of the Charter, i.e. the ECSR and the GC, as well as of the CDDH, were invited to attend the GT-CHARTÉ meetings. The Conference of International Non-Governmental Organisations, the social partners (representatives of trade unions and of employers' organisations) and an academic were also invited to exchange views with GT-CHARTÉ. Lastly, the European Committee for Social Cohesion (CCS) participated in an exchange of views with GT-CHARTÉ on opportunities to further strengthen links between its work and the European Social Charter.

From the outset, the Chairperson underlined that the mandate of GT-CHARTÉ was to strengthen the European Social Charter system and improve the implementation of social rights while reducing the burden for States Parties, especially as regards reporting. He urged delegations to keep in mind this double objective and the consequence that the mandate would only be complied with if both objectives were achieved. Delegations confirmed their understanding that the primary objective is to reinforce the Charter mechanisms and the implementation of social rights, while many also emphasised the need to reduce the reporting burden of States Parties to the Charter.

This process culminated on 27 September 2022 with the adoption by the Committee of Ministers of a reform package prepared by GT-CHARTÉ with the overall aim of modernising the European Social Charter system.³² The operational measures of the reform take effect as of 2023. While changes concern primarily the reporting procedure, the reform introduces the possibility of *ad hoc* reports on transversal issues and procedural changes to the follow-up given to decisions of the ECSR in collective complaints.

In the reporting procedure, the Charter provisions on which States Parties are required to report are now divided into two groups (Group 1: Articles 1 to 6, 8 to 10, 18 to 22, 24, 25, 28 and 29; Group 2: Articles 7, 11 to 17, 23, 26, 27, 30 and 31) with a report on one group to be submitted every two years. This means that all accepted provisions will be examined for each State every four years. In order to bring further focus to the reporting by States Parties and subsequent assessments by the ECSR, while at the same time lightening the reporting burden on States, targeted questions will be drawn up by the ECSR and the GC. For States Parties bound by the collective

32. Implementation of the Report on Improving the European Social Charter system – Operational proposals for the reform of the European Social Charter system ([CM\(2022\)114-final](#))

complaints procedure, reporting on the two groups of provisions will take place every four years, which means that all accepted Charter provisions are examined for each of these States every eight years. The reporting required will take account of decisions on collective complaints pertaining to the provisions reported on. Lastly, the GC will strengthen the follow-up given to conclusions adopted by the ECSR by proposing reasoned recommendations for adoption by the Committee of Ministers with a view to triggering changes at the national level and bringing situations into line with the European Social Charter. There will be a possibility of further dialogue with the State Parties concerned by a recommendation with a view to identifying steps that could be taken to reach conformity with the Charter such as country visits to meet relevant stakeholders, meetings with other State Parties to exchange on good practices or tailor-made technical assistance.

A novelty of the reform is that when new or critical issues arise with a broad or transversal scope or a pan-European dimension, States Parties may be asked to submit an *ad hoc* report for examination by the ECSR. The subject and timing of *ad hoc* reports will be decided by the ECSR and the GC. Follow-up should involve dialogue among the States Parties (within the context of the GC), associating relevant stakeholders (including social partners and civil society).

With respect to the follow-up to decisions in collective complaints, certain procedural adjustments have been made. In particular in cases where the Committee of Ministers addressed recommendations to States Parties after the ECSR found that the Charter had not been applied in a satisfactory manner, States Parties will be asked to submit a single report on the follow-up undertaken two years after the recommendation. The assessment of the ECSR on the follow-up reports will then be transmitted to the Committee of Ministers. Depending on the assessment of the ECSR, the Committee of Ministers may:

- ▶ close the case with a resolution,
- ▶ renew the recommendation,
- ▶ before renewing the recommendation, it may refer the case to the GC for further consultations. In the light of the outcome of these consultations, the Committee of Ministers decides whether to close the procedure or renew the recommendation.

As part of the reform, further dialogue is encouraged between the Charter's monitoring bodies (ECSR, GC and, ultimately, the Committee of Ministers) and the competent authorities of each State Party, whichever procedure under the Charter system is involved (reporting, collective complaints and their respective follow-up procedures). In certain cases, this may involve a group of States Parties seeking to address problematic issues that are common to them or sharing examples of good practice. Social partners and civil society organisations at the European and national levels should be involved in such dialogue. Dialogue, whether requested by a State Party or at the initiative of one of the organs of the Charter, can involve requests for information, exchanges of letters or meetings. Dialogue, engaged in a constructive spirit, is a means to reaching a common understanding of problematic issues that may allow possible solutions to be identified. It may also serve as a means of enabling technical assistance.

Operational steps have started to be taken in early 2023 to implement the reform package adopted by the Committee of Ministers in September 2022. GT-CHARTE pursued its reflection on longer-term issues and prepared a forward-looking document, approved by the Committee of Ministers on 15 March 2023, for future developments that will enable the European Social Charter system to remain effective and move with the times. This report identifies the longer-term substantive and procedural issues that will need to be kept under review. The decisions adopted by the Committee of Ministers in connection with this report also list specific areas where further work should be pursued, for instance, with a view to achieving acceptance by States Parties of further commitments under the Charter and the collective complaints procedure and ensuring that new or evolving situations are covered by existing Charter rights through the ECSR's case law or new soft-law instruments, where necessary.

7. Relations with Council of Europe bodies

7.1. Secretary General of the Council of Europe

The 2022 report of the Secretary General examines progress across the 12 priorities identified in the *Strategic Framework* after the first year of its four-year time span. One of those priorities is the fight against social inequalities and poverty. These issues have been further highlighted by the Covid-19 crisis and the war of aggression of the Russian Federation against Ukraine. The most vulnerable have been hit most severely by the pandemic and Europe faces the longer-term consequences of a deep economic crisis. In light of this, the Secretary General stresses that “the promotion of social and economic rights will be crucial at the European level and achieved through further strengthening the implementation of the European Social Charter”.

For example, the Secretary General also underlined the new impetus given to the implementation of the European Social Charter, both on collective complaints and in the context of the reporting procedure. The Committee of Ministers showed increased commitment on collective complaints with the adoption, on 17 March 2021, of 14 recommendations in respect of the 14 States concerned by a series of complaints lodged by University Women of Europe (UWE) on the subject of equal pay.³³ This is a new situation, as it had been the Committee of Ministers’ practice over the previous 20 years to adopt non-binding resolutions rather than recommendations.³⁴ Bearing in mind the importance of the question and the fact that the gender pay gap concerns all the Organisation’s member States, the Committee of Ministers also adopted a political declaration on equal pay and equal opportunities for women and men in employment.³⁵ This declaration, which is directly based on Charter standards and decisions, marks a precedent: it is the first time that the ECSR’s decisions have prompted member States to make a declaration of this type. This strong commitment continued throughout the year through the adoption of additional recommendations on, *inter alia*, children’s rights, particularly the right to inclusive education of children with intellectual disabilities.³⁶

33. [Recommendations adopted in the context of the European Social Charter supervision system \(CM/RecChS\(2021\)1 to CM/RecChS\(2021\)14\)](#).

34. See Article 9 of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, available at <https://rm.coe.int/168007cdad>

35. Declaration on equal pay and equal opportunities for women and men in employment, 17 March 2021: [Decl\(17/03/2021\)1](#)

36. [Recommendations adopted in the context of the European Social Charter supervision system \(CM/RecChS\(2021\)15 to CM/RecChS\(2021\)19\)](#).

The Secretary General took an active role in the reform process of the monitoring system of the European Social Charter, which led to the Committee of Ministers establishing an *ad hoc* working party (GT-CHARTE). The GT-CHART work was held by the objective to enhance the effectiveness of the treaty system of the Charter. Further details on its work can be found in Chapter 7.2.

7.2. Committee of Ministers ³⁷

As regards social rights, the Committee of Ministers, recalling its decisions adopted at its 131st Session (Hamburg, 21 May 2021) and the [Declaration adopted on the occasion of the 60th anniversary of the European Social Charter](#) (18 October 2021), during their [annual session](#) on 20 May 2022 in Turin (Italy):

- ▶ welcomed the follow-up action taken by its Deputies in the spirit of the Turin process for the European Social Charter on improving the Charter system;
- ▶ acknowledged the valuable contribution made by the Secretary General and the organs of the Charter, namely the ECSR and the GC;
- ▶ confirmed its commitment to improve constantly the implementation of social rights and underlined the need to embrace good democratic governance by promoting dialogue with the social partners and civil society;
- ▶ approved the proposals outlined in the report on improving the efficiency and impact of the European Social Charter system ([CM\(2022\)67-final](#));
- ▶ instructed its Deputies to adopt the operational decisions required to implement, already in 2023, the reform of the European Social Charter system;
- ▶ invited its Deputies to report at the 133rd Session of the Committee of Ministers on the state of the reflection on longer-term substantive and procedural issues relating to the European Social Charter.

On this occasion, Karin Lukas, President of the ECSR at the time, declared: “As President of the European Committee of Social Rights, I welcomed the efforts of States Parties to the European Social Charter to make the implementation of social rights under the Charter more effective and underlined that this can only be achieved if this work receives the resources needed, which is currently not the case. Council of Europe member States should translate into practice the “resolve to ensure that the Charter system is given the political support and the tools and means required to ensure its effectiveness” they [expressed on the occasion of the 60th anniversary of the Charter](#)”.

In her exchange of views with the Committee of Ministers Delegates, in October 2022, Karin Lukas emphasised that during her mandate the Committee had consistently sought to interpret the Charter in light of present-day conditions to keep up with the radical changes impacting social rights and to better protect rights bearers, especially the most vulnerable.³⁸

The successive crises which have rippled worldwide, have put extreme strain on the enjoyment of social rights by many on the continent. In this context, Karin Lukas

37. See also above as the work of GT-CHARTE

38. <https://rm.coe.int/karin-lukas-exchange-cm-3-11-22-final-en/1680a8df1f>

underlined the adoption by the Committee of Ministers of an ambitious reform package of the Charter system in September 2022³⁹, after a broad consultation process under the aegis of GT-CHARTÉ⁴⁰. She recalled that the main objective of the reform was to render the reporting procedure lighter and more targeted, to strengthen the role of the Governmental Committee and to enhance the dialogue among stakeholders.

She also informed the Ministers' Deputies that the ECSR has decided to strengthen its follow-up on non-accepted provisions⁴¹ through strengthened dialogue and exchange with national stakeholders. In addition, and in line with decisions of the Deputies, this process will also include not only States Parties bound by the Revised Charter, as has been the case up to now, but also States Parties bound by the 1961 Charter with the aim not only of increasing the number of accepted provisions but also of encouraging them to ratify the Revised Charter.

Karin Lukas also emphasised that the addition of new rights to the Charter should be given proper consideration in order to take full account of the evolving social context and expectations of European citizens.

The Committee of Ministers adopted the following recommendations and a resolution in 2022:

- ▶ [Recommendation CM/RecChS\(2022\)1](#), concerning the follow-up of the decision on the merits adopted on 19 May 2021 by the ECSR in the case *Confédération générale du travail (CGT) and Confédération française de l'encadrement CGC (CFE-CGC) c. France*, Complaint No. 149/2017.
- ▶ [Recommendation CM/RecChS\(2022\)2](#), concerning the follow-up of the decision on the merits adopted on 26 January 2021 by the ECSR in the case *International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece*, Complaint No. 173/2018.
- ▶ [Resolution CM/ResChS\(2022\)1](#), concerning the follow-up of the [decision on the merits adopted on 8 December 2021 by the ECSR in the case *Unione sindacale di base – settore pubblico impiego \(USB\) v. Italy*](#), Complaint No. 153/2017, thus making public the decision on the merits.

7.3. Parliamentary Assembly of the Council of Europe

In 2022, the Parliamentary Assembly of the Council of Europe (PACE) adopted the following Recommendations with particular relevance to the European Social Charter.

On 31 May 2022, the PACE adopted [Recommendation 2233 \(2022\) "Addiction to prescribed medicines"](#) in which it recommended that the Committee of Ministers consider issuing a recommendation on the rights of patients in relation to the use of prescription medicines, containing, *inter alia*, the right to effective access and availability of essential medicines, including those that contain controlled substances under international law, as well as the right to the enjoyment of the highest attainable standard of physical and mental health, free of dependency or addiction. The PACE

39. <https://www.coe.int/en/web/european-social-charter/reform-process>

40. <https://www.coe.int/en/web/cm/gt-charte>

41. <https://www.coe.int/en/web/european-social-charter/accepted-of-provisions>

also called on the relevant Council of Europe bodies to work closely with the World Health Organization in this area, including on the possible drafting and issuance of guidance on prevention, identification, management and treatment of addiction to/dependence on prescribed medicines at global and/or Council of Europe level.

In its comments addressed to the Committee of Ministers on the PACE Recommendation 2233 (2022), the ECSR welcomed the PACE's recommendation to the Committee of Ministers to consider issuing a recommendation on the rights of patients in relation to the use of prescribed medicines. The ECSR supported the view that a balance must be struck between ensuring effective access to prescribed medicines as an integral part of the right to health and preventing, to the extent possible, avoidable dependency on prescribed medicines as an integral part of the same right to health. The ECSR stressed that when doing this, attention should be paid to the social determinants of health in minimising the risk of developing a problematic use of prescribed medicines.

Moreover, the ECSR welcomed the recommendations of PACE that the Council of Europe member States monitor the possible impact of the Covid-19 pandemic on the problematic use of prescribed medicines and adjust national guidelines as appropriate. The ECSR pointed out that States Parties must be particularly mindful of the impact that their choices will have for groups with heightened vulnerabilities, as well as for other persons affected, including especially their families on whom falls the heaviest burden in the event of institutional shortcomings.

On 31 May 2022, the PACE adopted Recommendation 2234 (2022) "Eradicating extreme child poverty in Europe: an international obligation and a moral duty", in which it noted that child poverty is far from being eradicated in Europe and proposed to use the momentum from the pandemic to rekindle the global goal of ending extreme poverty by 2030.

The PACE called on the Committee of Ministers to encourage the States of the Council of Europe to make children's best interests and well-being the focus of public policies to combat extreme child poverty. Moreover, the PACE reiterated its call to the Committee of Ministers to advocate the opening of negotiations as soon as possible on the European Union's accession to the European Social Charter (revised) (ETS No. 163) in order to enhance the consistency of European socio-economic rights standards.

In its comments addressed to the Committee of Ministers on the PACE Recommendation 2234 (2022), the ECSR shared the Assembly's concern that addressing extreme child poverty is a matter of urgency. The ECSR recalled that under Article 17 of the Charter, States must take all appropriate and necessary measures directed towards the improvement and eradication of child poverty and social exclusion. The ECSR had stated that the prevalence of child poverty in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of state efforts to ensure the right of children and young persons to social, legal and economic protection.

The ECSR took note of the Assembly's proposal to pursue efforts to promote the European Union's accession to the revised Charter and thus to seek greater complementarity between the Charter system and the European Pillar of Social Rights. The

ECSR welcomed this proposal which would reinforce the protection of children's rights in the EU, including protection from poverty and social exclusion, in accordance with Principle 11 of the Pillar of Social Rights. The ECSR therefore invited all the parties concerned to take concrete steps towards such accession as soon as possible. In this context, the ECSR expressed its wish to be consulted in order to provide guidance and advice on the normative content of the Charter and the appropriate process.

7.4. European Court of Human Rights

The ECSR often refers to the case law of the European Court of Human Rights, both in the context of the reporting procedure and its decisions concerning collective complaints. The following 2022 decision is an example:

- ▶ [Panhellenic Association of Pensioners of the OTE Group Telecommunications \(PAP-OTE\) v. Greece, Complaint No. 165/2018, decision on the merits of 17 May 2022](#)

Similarly, in 2022, the European Court of Human Rights referred to the ECSR and to the European Social Charter in a number of cases, including:

- ▶ [Case of Association of civil servants and Union for collective bargaining and others v. Germany \(application Nos. 815/18 and 4 others\), judgment of 5 July 2022](#)
- ▶ [Case of C. v. Romania \(application No. 47358/20\), Judgment of 30 August 2022](#)
- ▶ [Case of Beeler v. Switzerland \(application No. 78630/12\), judgment of 11 October 2022](#)
- ▶ [Case of Darboe and Camara v. Italy \(application No. 5797/17\), judgment of 21 July 2022](#)
- ▶ [Case of Arnar Helgi Larusson v. Iceland \(application No. 23077/19\), judgment of 31 May 2022.](#)

7.5. Commissioner for Human Rights

The Commissioner for Human Rights, Dunja Mijatovic, visited several countries and issued reports and statements based on her visits. Among other issues, social rights were at the centre of her observations in several countries.

For instance, while releasing the report⁴² following her visit to the United Kingdom (UK) in June 2022, she stated that "both the overall system for protecting human rights, and the rights of specific groups, are currently under pressure in the UK. The authorities should spare no effort to reverse this trend. To strengthen its commitments to children's social and economic rights, the UK should ratify the revised European Social Charter, the Additional Protocol Providing for a System of Collective Complaints, and the revised European Code of Social Security. It should also accept individual complaints in relation to the CRC ([Convention on the Rights of the Child](#)) and the ICESCR ([International Covenant on Economic, Social and Cultural Rights](#))."

42. [Commissioner's report on the United Kingdom following her visit in June 2022](#)

During her visit to Spain, while the Commissioner welcomed the ratification of the Revised European Social Charter and its collective complaints mechanism in 2021, she stressed that to address inequalities in access to social rights throughout Spain, the authorities should allocate resources transparently and sustainably and adopt common standards to ensure, in close co-operation with all competent authorities at central and local levels, that the specific needs of the most vulnerable are met. “Civil participation in decision making is crucial to design social policies in line with the needs of society. Civil society organisations should be proactively consulted and involved at all stages,” the Commissioner said.

The Commissioner called for long-standing issues, such as the very low social housing stock due to years of scarce public investment, the high costs for renting or buying a home, forced evictions, and the rising levels of homelessness to be addressed urgently. She added that “the temporary suspension of evictions for vulnerable families launched in response to Covid-19 should be extended and aimed at the most destitute, until a more comprehensive and stable solution of alternative housing for all those in need can be found.”⁴³ The Commissioner also underlined that it is important that the housing bill, currently in Parliament which addresses some of these concerns, be adopted as soon as possible.

During her visit to Georgia in February 2022, the Commissioner, while welcoming recent progress in the reduction of workplace accidents, called on the authorities to further improve occupational safety at the workplace. She also recommended promoting and supporting diversity and equality at work, including with regard to the integration of persons with disabilities. The Commissioner further called upon the authorities to address the gender pay gap and gender stereotypes in employment, to continuously raise awareness about sexual harassment, ways to report it and available remedies, as well as to take resolute action to address child labour and prevent and combat child trafficking.

The Commissioner also encouraged Georgia to consider accepting additional provisions of the Charter as soon as possible.⁴⁴

7.6. Conference of INGOs

The Department of Social Rights organised, together with the Council of Europe Conference of INGOs,⁴⁵ **two training sessions for non-governmental organisations** on the monitoring procedures of the European Social Charter and, in particular, on the use of the collective complaints procedure as a means of advancing the implementation of socio-economic rights at national level.

The **first training session** was held online on 29 March 2022. Participants had the opportunity to learn more about the two monitoring procedures of the European Social Charter and to examine the targeted questions sent to States Parties of the European Social Charter relating to thematic group 3 on labour rights for Conclusions 2022.

43. [Read the Commissioner for Human Rights’ report on Spain following her visit to the country](#)

44. See : <https://rm.coe.int/report-of-the-council-of-europe-commissioner-for-human-rights-dunja-mi/1680a740bf>

45. [Council of Europe Conference of INGOs](#)

The [second training session](#), held on 14 June 2022, was devoted to the use of the collective complaints procedure. The objective was to provide non-governmental organisations with know-how about the procedure and strengthen their capacity to submit collective complaints under the Charter. The session highlighted the key role of non-governmental organisations in the application of the monitoring procedures of the European Social Charter in order to better protect social rights at pan-European level, in particular those of vulnerable groups in countries that have ratified the Protocol.

To mark the **International Day for the Eradication of Poverty**, the Council of Europe Conference of INGOs organised a seminar on the theme “Putting an end to non-take-up of rights: for effective access by everyone to rights and services” on 17 October 2022 in Strasbourg and online. The event aimed to shed light on the issue of the non-use of rights or the non-access to rights and services, based on the testimonies of excluded persons, and taking into account various studies and reports. The main speakers included Olivier de Schutter, UN Special Rapporteur on extreme poverty and human rights, and Karin Lukas, President of the European Committee of Social Rights.

8. Relations with international organisations and bodies

8.1. United Nations

The Department of Social Rights of the Council of Europe welcomed the opportunity to provide comments on the forthcoming thematic report on “Racism and the right to health” by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. This response focused on the first two questions of the questionnaire, considering the mandate of the ECSR as the independent expert body tasked with monitoring compliance with the European Social Charter.

The comments recalled that the Charter includes provisions on the right to protection of health (Article 11) and the prohibition of discrimination (Article E). Relying on these provisions, the ECSR has developed a substantial case law on the expressions of racism in the context of healthcare, including with regard to the Roma communities or undocumented migrants in Europe.⁴⁶ Under Article 11, States Parties are called upon to ensure the best possible state of health for the population according to existing knowledge, including both positive obligations to guarantee the best possible services, *inter alia*, adequate health services, and negative obligations to refrain from interfering directly or indirectly with this right. Health systems must respond adequately to avoidable health risks, that is, ones that can be controlled by human action. The ECSR’s assessment is based on indicators such as life expectancy or the principal causes of death.

8.2. European Union

8.2.1 European Parliament

In its **Resolution**⁴⁷ of 15 September 2022 on the situation of fundamental rights in the European Union in 2020 and 2021, the European Parliament called on EU Member States to accept, without delay, to be bound by Article 31 of the Revised European Social Charter⁴⁸ on the right to housing.

46. All materials cited in this document are available on the European Social Charter website here: <https://www.coe.int/en/web/european-social-charter/home>.

47. See EP Resolution at https://www.europarl.europa.eu/doceo/document/TA-9-2022-0325_EN.html

48. [Revised European Social Charter](#)

It stressed in that respect that “housing is a fundamental necessity and that access to housing, particularly housing assistance, is a fundamental right, as citizens who lack housing cannot participate fully in society or avail themselves of all of their fundamental rights”. It also expressed “particular concern that young people are deprived of housing due to the huge increase in house prices, especially in certain urban areas”.

In addition, the European Parliament called on the European Commission to look into the steps needed for the EU to accede to the European Social Charter.

8.3. Academic Network on the European Social Charter and social rights (ANESC)⁴⁹

In 2022, the European Committee of Social Rights pursued its cooperation with the Academic Network on the European Social Charter and Social Rights (ANESC). ANESC continues to promote the European Social Charter and respect for the values it defends.

The year 2022 saw the publication of the first volume of the Article-by-Article Commentary on the European Social Charter by Brill Publishers (ANESC, S. ANGELERI and C. NIVARD (eds), *The European Social Charter: A Commentary. Volume 1: Cross-cutting Themes*, Brill, 2022, 561 pages).

RACSE also continues the mock advocacy competition based on the European Social Charter. During the academic year 2021-2022 and at the initiative of its Belgian section, RACSE organised the first edition of the mock advocacy competition on the European Social Charter. This bilingual (French-English) competition is based on a fictitious collective complaint and includes a written and an oral phase. Participation in the competition is restricted to law students registered with a university. By drawing lots, half of the competing teams are given the status of “claimants” and the other half the status of “defendant government”.

The following universities took part in the competition:

- University of Ferrara (Italy)
- University of Saint-Louis-Brussels (Belgium)
- Free University of Brussels – VUB (Belgium)
- University of Rouen (France)
- University of Paris-Saclay (France)
- Eötvös Loránd University (Hungary)
- University of Milan (Italy)
- University Sorbonne Paris Nord (France)
- University of Maynooth (Ireland)

The oral phase of the competition took place on 1 April 2022 in Brussels.

The jury unanimously underlined the high quality of the pleadings. At the end of the pleadings, the University of Saint-Louis-Brussels (Belgium) and the University of

49. See: [RACSE-ANESC. | Réseau Académique sur la Charte Sociale Européenne et les Droits Sociaux](#)

Ferrara (Italy) faced each other in the grand final. The University of Ferrara won the competition. Its team members were: Alexandra Busuioc, Filippo Faccin, Carlotta Rambaldi and Ilaria Asquironi. Sorbonne Paris-Nord University won the prize for the best procedural writing. Its team members were: Mélanie Crespo, Agathe Fourmond, Emilie Gac and Anna-Lou Raude. The prizes for the best litigators went to Balint Bodo (Eötvös Loránd University, Hungary) and Sophie Cuignet (University of Saint-Louis-Brussels, Belgium).

8.4. COE-FRA-ENNHRI-EQUINET Collaborative Platform on social and economic rights

The **COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights**⁵⁰ held its 12th meeting on 20 September 2022 in Bratislava (Slovak Republic). The objectives of the meeting were to explore opportunities to strengthen cooperation, the exchange of practices and synergies between National Human Rights Institutions (NHRIs), National Equality Bodies (NEBs) and civil society organisations; to reflect on the specificity, as well as the complementarity, of NHRIs/NEBs and civil society actors in the promotion of social rights, including in the Covid-19 context.

Participants learnt about examples of good practice involving existing collaboration by national and international NGOs and NHRIs and NEBs from Serbia, Spain, Croatia, the Slovak Republic, etc. The working group session provided concrete ideas on how to create and strengthen collaboration between NHRIs, NEBs and NGOs with regard to social rights and the European Social Charter.

Nevertheless, a number of challenges to the collaboration still remain:

- ▶ the lack of resources and a high rate of staff turnover making sustainable cooperation more difficult;
- ▶ the limited mandate of some NHRIs/NEBs;
- ▶ the lack of knowledge about the existence of the Charter and its monitoring mechanism among NGOs;
- ▶ the lack of capacity to engage with the procedures of the Charter;
- ▶ the lack of mutual trust between organisations, partly because of the high expectations of NGOs and the more measured language used by NHRIs/NEBs;
- ▶ difficulties experienced by NHRIs/NEBs in sustaining their role as bridge-builders between civil society and the government;
- ▶ the limited engagement with the media preventing greater visibility of social rights-related issues;
- ▶ the adaptation of the narrative in relation to social and economic rights.

Participants underlined the necessity of the following in order to overcome challenges and enable successful partnerships between NEBs/NHRIs and NGOs:

- ▶ stable and sustainable funding;
- ▶ independence and autonomy;

50. COE-FRA-ENNHRI-EQUINET Collaborative Platform on Social and Economic Rights: <https://www.coe.int/en/web/european-social-charter/coe-fra-ennhri-equinet>

- ▶ strengthening networking and the exchanging of good practice;
- ▶ the development of informal relationships and the sharing of expertise among NHRIs/NEBs and NGOs;
- ▶ learning from established collaborative projects;
- ▶ taking action for awareness raising, including education and vocational training;
- ▶ adapting the language according to target groups by using a human rights-based narrative to challenge the mainstream public discourse and reach specific groups;
- ▶ involving civil society on a regular basis in reporting, monitoring, project implementation, etc., in order to build trust and sustainable collaboration;
- ▶ training for NHRIs/NEBs and NGOs on the Charter and its monitoring mechanism.

The meeting provided a valuable opportunity for exchange, and participants decided to continue promoting collaboration between organisations. The Council of Europe and the European Union Fundamental Rights Agency were invited, as partner organisations within the Platform, to support this process.

In addition, an **online training for NHRIs and NEBs on the reporting procedure of the European Social Charter** was organised on 2 February 2022.⁵¹

The objectives of the training were:

- ▶ to strengthen the knowledge of NHRIs/NEBs on the reporting procedure of the European Social Charter in order to encourage them to take an active part in it;
- ▶ to present the questionnaire on labour rights addressed to States Parties for reporting cycle 2022 and examine the opportunities for NHRIs and NEBs to submit additional information to the ECSR on labour rights;
- ▶ to share the concrete experiences of NHRIs and NEBs on collecting, presenting and submitting additional information to the ECSR.

In 2022, the Council of Europe granted financial support to three institutions to implement projects in the context of a **call for proposals open to National Human Rights Institutions and National Equality Bodies**⁵² in the field of social and economic rights. The call was launched on 15 February 2022.

These institutions were:

- ▶ The Commission for Protection from Discrimination of Albania⁵³ for the implementation of the project “Promotion of the European Social Charter and the work of the European Committee of Social Rights at local level”

The objectives of the action were to promote the European Social Charter at local level, to understand the obligations of the Albanian State to ensure the implementation of social rights, to increase the institutional capacities at local level, recognise the activity of the ECSR for the implementation, and guarantee of the rights defined

51. [How can National Human Rights Institutions and Equality Bodies engage with the European Committee of Social Rights – Social Rights \(coe.int\)](#)

52. [Call for proposals for national human rights institutions and equality bodies in the field of social and economic rights](#)

53. [Commission for Protection from Discrimination of Albania](#)

in the Charter. The Commission organised eight training activities at local level involving local authorities and civil society. It also produced visibility materials such as brochures and posters on the European Social Charter and issued a report on the findings following the training sessions and made recommendations for the future.

- ▶ The Protector of Citizens of Serbia⁵⁴ for the implementation of the project “Strengthening the capacities of the Protector of Citizens of Serbia for the promotion and protection of socio-economic rights”

The objectives of the action were to strengthen the Protector of Citizens’ capacities to monitor, in line with its mandate of NHRI, the enjoyment of the rights of older women in rural areas as laid down in the European Social Charter, to contribute to improving the legal framework governing the rights of older women in rural areas, and to submit alternative reports to the ECSR and other international bodies.

During the implementation period, the Protector of Citizens prepared a desk analysis of the situation of older women in rural areas, establishing the different needs, capacities and priorities for their lives, as well as the key issues that affect their human rights. It also established a roster of civil society organisations dealing with the rights of older women in rural areas to serve as a future source of information for the Protector of Citizens. For instance, a database on municipal and women’s associations in rural areas on the territory of AP Vojvodina is publicly available. Lastly, the institution conducted a training session for its staff on reporting to the ECSR. The session was attended by more than 27 staff members working on complaints and reporting in numerous areas related to the rights of elderly women (social security and pension rights, health, gender equality, persons with disabilities, property rights, labour rights, taxes, etc.).

- ▶ The Slovak National Centre for Human Rights⁵⁵ responsible for the implementation of the project “Enhancing the use of the reporting procedure of the European Social Charter in Slovakia with a main focus on Group 4 on children, families and migrants”

The objective of the proposed action was to enhance the use of the reporting procedure of the European Social Charter in the Slovak Republic with a focus on Group 4 on children, families and migrants. For this purpose, the Centre conducted desk research on challenges in the implementation of the reported articles, created a database of civil society organisations working on the rights of children, families and migrants, organised a seminar and developed an information toolkit for national civil society organisations. The Centre organised follow-up consultations with civil society on the reporting procedure of the Charter and issued a joint call for action addressed to responsible authorities to adopt measures to protect the right to housing in the Slovak Republic, including by accepting Article 31 of the Charter and the collective complaints procedure.

54. [Protector of Citizens of Serbia](#)

55. [Slovak National Centre for Human Rights](#)

9. Other important activities and events in 2022

The conference “**Social Resilience and Health Equity**” organised in the context of the Italian Chairmanship of the Committee of Ministers on 22 February 2022.⁵⁶ aimed to raise awareness of the importance of human rights protection during public health crises and to support member States in nurturing better resilience to, and preparedness for, such crises. The event was an opportunity to identify the needs to be met for the protection of vulnerable groups, including people with difficulties in accessing healthcare. Eliane Chemla, Vice-President of the ECSR, and Giuseppe Palmisano, General Rapporteur of the Committee, took part in it.

The conclusions pointed out that, although the health emergency has accentuated disparities within and among countries, it has also provided an unprecedented opportunity to take decisive action to finally place equitable access to healthcare at the heart of governments’ concerns.

On 22 March 2022, the ECSR held a **meeting with experts from the Danish Maritime Authority** to discuss the restrictions on trade union freedom and collective bargaining following from legislation on the Danish International Ships Register (DIS). Representatives of the International Labour Organization also took part in the meeting which took place within the context of the dialogue with the States Parties provided for under Article 24 of the Charter, as amended. The ECSR has long held the restrictions concerned to be in breach of the [European Social Charter](#) Articles 5 and 6§2.

On 6 July 2022, the ECSR held an **informal exchange of views with a delegation from the European Trade Union Confederation (ETUC)**⁵⁷ headed by Esther Lynch, Deputy General Secretary. The discussion focused on social rights in the current geopolitical crisis and the reform process of the European Social Charter system. In addition, the discussion touched upon issues of common concern such as the impact of artificial intelligence on workers’ rights and the protection of and the right to a healthy working environment. The two parties agreed to maintain their ongoing efforts and to reinforce their collaboration in order to better promote and protect social rights in Europe.

To mark the **International Day for the Eradication of Poverty**, the Council of Europe Conference of INGOs organised a seminar on the theme “Putting an end to non-take-up of rights: for effective access by everyone to rights and services” on 17 October 2022 in Strasbourg and online. The event sought to shed light on the issue of the non-use of rights or the non-access to rights and services, based on the testimonies of excluded persons, and taking into account various studies and reports. The main speakers included Olivier de Schutter, UN Special Rapporteur on extreme poverty and human rights, and Karin Lukas, President of the ECSR.

56. [Conference on Social Resilience and Health Equity – Human Rights and Biomedicine \(coe.int\)](#)

57. [European Trade Union Confederation \(ETUC\)](#)

On 8 December 2022, to mark the end of the mandate of several members of the ECSR, the Department of Social Rights organised a **seminar on strengthening the protection of social rights in Europe – the role of the European Social Charter**. Discussions covered the current negotiations around the reform of the Charter system, as well as the opportunities and challenges around social rights protection in Europe. The role of the Charter in respect of the future of work and workers' rights, in particular workers in atypical forms of employment, was also discussed.⁵⁸

An updated version of the **Digest⁵⁹ of the case-law of the ECSR on the European Social Charter** was published in December 2022. The Digest reflects the current interpretation by the Committee of each article of the Charter as resulting from its conclusions on the national situations of States Parties and its decisions in collective complaints. The Digest also contains a presentation of the basic principles of interpretation of the Charter and a description of the reporting and collective complaints procedures. The aim of the Digest is to make the case law of the ECSR on the Charter widely accessible to anyone interested in social rights: lawyers, government officials, social partners, civil society, academics, and more.

58. [Seminar on strengthening the protection of social rights in Europe – the role of the European Social Charter – Social Rights \(coe.int\)](#)

59. <https://rm.coe.int/digest-ecsr-prems-106522-web-en/1680a95dbd>

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Appendix 1

Signatures and ratifications of the European Social Charter at 1 January 2023

Signatures and ratifications of the 1961 Charter, its Protocols and the European Social Charter (revised) as of 17th March 2021 Member States	European Social Charter 1961 STE 035		Additional Protocol 1988 STE 128		Amending Protocol 1991 STE 142		Collective complaints Protocol 1995 STE 158		Revised European Social Charter 1996 STE 163	
	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification
Albania	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	21/9/98	14/11/02
Andorra	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	4/11/00	12/11/04
Armenia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	18/10/01	21/1/04
Austria	22/7/63	29/10/69	4/12/90		7/5/92	13/7/95	(2)	(2)	7/5/99	20/5/11
Azerbaijan	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	18/10/01	2/9/04
Belgium	18/10/61	16/10/90	20/5/92	23/6/03	22/10/91	21/9/00	14/5/96	23/6/03	3/5/96	2/3/04
Bosnia and Herzegovina	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	11/5/04	7/10/08
Bulgaria	(2)	(2)	(3)	(3)		(2)(2)		(4)(4)	21/9/98	7/6/00
Croatia	8/3/99	26/2/03	8/3/99	26/2/03	8/3/99	26/2/03	8/3/99	26/2/03	6/11/09	—
Cyprus	22/5/67	7/3/68	5/5/88	(3)	21/10/91	1/6/93	9/11/95	6/8/96	3/5/96	27/9/00
Czech Republic	27/5/92*	3/11/99	27/5/92*	17/11/99	27/5/92*	17/11/99	26/2/02	4/4/12	4/11/00	—
Denmark	18/10/61	3/3/65	27/8/96	27/8/96	—	***	9/11/95	—	3/5/96	—
Estonia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	4/5/98	11/9/00
Finland	9/2/90	29/4/91	9/2/90	29/4/91	16/3/92	18/8/94	9/11/95	17/7/98	3/5/96	21/6/02
France	18/10/61	9/3/73	22/6/89	(3)	21/10/91	24/5/95	9/11/95	7/5/99	3/5/96	7/5/99
Georgia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	(2)	30/6/00	22/8/05

Signatures and ratifications of the 1961 Charter, its Protocols and the European Social Charter (revised) as of 17th March 2021 Member States	European Social Charter 1961 STE 035		Additional Protocol 1988 STE 128		Amending Protocol 1991 STE 142		Collective complaints Protocol 1995 STE 158		Revised European Social Charter 1996 STE 163	
	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification
Germany	18/10/61	27/1/65	5/5/88	—	—	***	(1)	—	29/6/07	29/3/21
Greece	18/10/61	6/6/84	5/5/88	18/6/98	29/11/91	12/9/96	18/6/98	18/6/98	3/5/96	18/03/16
Hungary	13/12/91	8/7/99	7/10/04	1/6/05	13/12/91	4/2/04	7/10/04	—	7/10/04	20/4/09
Island	15/1/76	15/1/76	5/5/88	—	12/12/01	21/2/02	(1)	—	4/11/98	—
Ireland	18/10/61	7/10/64	(3)	(3)	14/5/97	14/5/97	4/11/00	4/11/00	4/11/00	4/11/00
Italy	18/10/61	22/10/65	5/5/88	26/5/94	21/10/91	27/1/95	9/11/95	3/11/97	3/5/96	5/7/99
Latvia	29/5/97	31/1/02	29/5/97	—	29/5/97	9/12/03	(1)	—	29/5/07	26/03/13
Liechtenstein	9/10/91	—	—	—	—	—	—	—	—	—
Lithuania	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	8/9/97	29/6/01
Luxembourg	18/10/61	10/10/91	5/5/88	—	21/10/91	***	(1)	—	11/2/98	—
Malta	26/5/88	4/10/88	(3)	(3)	21/10/91	16/2/94	(2)	—	27/7/05	27/7/05
Republic of Moldova	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	3/11/98	8/11/01
Monaco	(1)	—	(1)	—	(1)	—	(1)	—	5/10/04	—
Montenegro	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	22/3/05**	3/3/10
The Netherlands	18/10/61	22/4/80	14/6/90	5/8/92	21/10/91	1/6/93	23/1/04	3/5/06	23/1/04	3/5/06
North Macedonia	5/5/98	31/3/05	5/5/98	—	5/5/98	31/3/05	(2)	—	27/5/09	6/1/12
Norway	18/10/61	26/10/62	10/12/93	10/12/93	21/10/91	21/10/91	20/3/97	20/3/97	7/5/01	7/5/01
Poland	26/11/91	25/6/97	(1)	—	18/4/97	25/6/97	(1)	—	25/10/05	—

Signatures and ratifications of the 1961 Charter, its Protocols and the European Social Charter (revised) as of 17th March 2021 Member States	European Social Charter 1961 STE 035		Additional Protocol 1988 STE 128		Amending Protocol 1991 STE 142		Collective complaints Protocol 1995 STE 158		Revised European Social Charter 1996 STE 163	
	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification	Signature	Ratification
Portugal	1/6/82	30/9/91	(3)	(3)	24/2/92	8/3/93	9/11/95	20/3/98	3/5/96	30/5/02
Romania	4/10/94	(2)	(3)	(3)	(2)	(2)	(2)	—	14/5/97	7/5/99
Russian Federation ⁶⁰	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	14/9/00	16/10/09
San Marino	(1)	—	(1)	—	(1)	—	(1)	—	18/10/01	—
Serbia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	22/3/05*	14/9/09
Slovak Republic	27/5/92*	22/6/98	27/5/92*	22/6/98	27/5/92*	22/6/98	18/11/99	—	18/11/99	23/4/09
Slovenia	11/10/97	(2)	11/10/97	(3)	11/10/97	(2)	11/10/97	(4)	11/10/97	7/5/99
Spain	27/4/78	6/5/80	5/5/88	24/1/00	21/10/91	24/1/00	(1)	17/05/21	23/10/00	17/05/21
Sweden	18/10/61	17/12/62	5/5/88	5/5/89	21/10/91	18/3/92	9/11/95	29/5/98	3/5/96	29/5/98
Switzerland	6/5/76	—	—	—	—	—	—	—	—	—
Turkiye	18/10/61	24/11/89	5/5/98	(3)	6/10/04	10/6/09	(2)	—	6/10/04	27/6/07
Ukraine	2/5/96	(2)	(3)	(3)	(2)	(2)	(2)	—	7/5/99	21/12/06
United Kingdom	18/10/61	11/7/62	(1)	—	21/10/91	***	(1)	—	7/11/97	—

* Date of signature by the Czech and Slovak Federal Republic.

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

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

⁶⁰ By decision of 16 March 2022 of the Committee of Ministers of the Council of Europe, on that day the Russian Federation ceased to be a member of the Council of Europe.

Appendix 2

Composition of the European Committee of Social Rights at 1 January 2023 (in order of precedence⁶¹)

	Term of Office
Aoife NOLAN, President (Irish)	
Eliane CHEMLA, Vice-President (French)	31/12/2024
Tatiana PUIU, Vice-President (Moldovan)	31/12/2024
Kristine DUPATE, General Rapporteur (Latvian)	31/12/2028
József HAJDÚ (Hungarian)	31/12/2024
Karin MØHL LARSEN (Danish)	31/12/2026
Yusuf BALCI (Turkish)	31/12/2024
Paul RIETJENS (Belgian)	31/12/2026
George THEODOSIS (Greek)	31/12/2026
Mario VINKOVIĆ (Croatian)	31/12/2026
Miriam KULLMANN (German)	31/12/2026
Carmen SALCEDO BELTRÁN (Spanish)	31/12/2028
Monika ŠIMUNKOVA (Czech)	31/12/2028
Frantz MARHOLD (Austrian)	31/12/2028
Alla FEDOROVA (Ukrainian)	31/12/2024

61. According to Article 7 of the Committee's Rules.

Appendix 3

List of collective complaints registered in 2022

In 2022, the European committee of Social Rights registered 16 complaints:

- ▶ European Organisation of Military Associations and Trade Unions (EUROMIL) v. Spain
Complaint No. 219/2022
- ▶ Confederación Sindical de Comisiones Obreras (CCOO) v. Spain
Complaint No. 218/2022
- ▶ Amnesty International v. Greece
Complaint No. 217/2022
- ▶ Federação Nacional dos Professores (FENPROF) v. Portugal
Complaint No. 216/2022
- ▶ Sindacato Autonomo Comitato Nazionale Pompieri (CO.NA.PO.) v. Italy
Complaint No. n° 215/2022
- ▶ Sindacato Autonomo Comitato Nazionale Pompieri (CO.NA.PO.) v. Italy
Complaint No. 214/2022
- ▶ Associazione Sindacale Militari (ASSO.MIL.) v. Italy
Complaint No. 213/2022
- ▶ European Organisation of Military Associations and Trade Unions (EUROMIL) v. Ireland
Complaint No. 212/2022
- ▶ Syndicat des Agrégés de l'Enseignement Supérieur (SAGES) v. France
Complaint No. 211/2022
- ▶ International Federation of Associations of the Elderly (FIAPA) v. France
Complaint No. 210/2022
- ▶ Fellesforbundet for Sjøfolk (FFFS) v. Norway
Complaint No. 209/2022
- ▶ Unione sindacale di base (USB) v. Italy
Complaint No. 208/2022
- ▶ Unión General de Trabajadores (UGT) v. Spain
Complaint No. 207/2022
- ▶ Defence for Children International (DCI), European Federation of National Organisations working with the Homeless (FEANTSA), Magistrats Européens pour la Démocratie et les Libertés (MEDEL), Confederación Sindical de Comisiones Obreras (CCOO) and International Movement ATD Fourth World v. Spain
Complaint No. 206/2022
- ▶ International Federation of Associations of the Elderly (FIAPA) v. France
Complaint No. 205/2022
- ▶ Open Society European Policy Institute (OSEPI) v. Bulgaria
Complaint No. 204/2022

Appendix 4

Number of decisions adopted by the European Committee of Social Rights 1998-2022

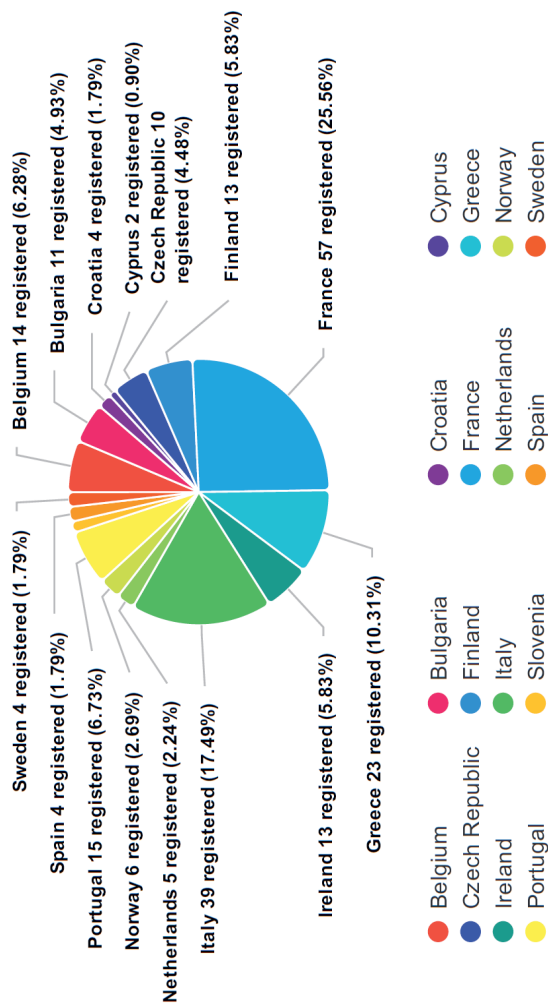
Years	Registered complaints	Pending complaints on 1 st January	Decisions on admissibility	Decisions on the merits	Decisions on admissibility and the merits	Decisions on immediate measures	Decisions on admissibility and immediate measures	Striking off/inadmissible	Total decisions
1998	1	0	0	0	0	0	0	0	0
1999	5	1	2	1	0	0	0	0/1	3
2000	4	4	7	5	0	0	0	0	12
2001	1	3	2	3	0	0	0	0	5
2002	2	1	2	1	0	0	0	0	3
2003	10	2	8	2	0	0	0	0	10
2004	5	10	6	10	0	0	0	0	16
2005	4	5	5	4	0	0	0	0/2	9
2006	7	3	5	4	0	0	0	0/1	9
2007	7	5	7	5	0	0	0	0	12
2008	8	7	8	5	0	0	0	1/0	14
2009	5	9	7	7	0	0	0	0	14
2010	4	7	3	6	0	0	0	0	9

Years	Registered complaints	Pending complaints on 1 st January	Decisions on admissibility	Decisions on the merits	Decisions on admissibility and the merits	Decisions on immediate measures	Decisions on admissibility and immediate measures	Striking off/inadmissible	Total decisions
2011	12	5	11	4	0	0	0	0	15
2012	13	13	9	15	0	0	0	0	24
2013	15	11	18	9	4	4	0	0	27
2014	10	17	3	8	0	0	0	1/0	12
2015	6	18	11	5	1	0	1	0	15
2016	21	19	6	8	3	0	0	0/1	11
2017	18	31	31	6	1	0	0	0/1	36
2018	15	42	14	9	0	0	0	0/1	23
2019	15	47	11	20	0	0	3	0/3	31
2020	9	39	17	8	0	0	1	0/5	25
2021	6	35	6	5	0	0	3	0/1	11
2022	16	35	10	14	0	0	2	0/0	24
Total period	219		209	164	9	4	10	2/16	370

Appendix 5

Collective complaints – Statistics by country – 1998 – 2022⁶²

Registered collective complaints by country in percent (%)



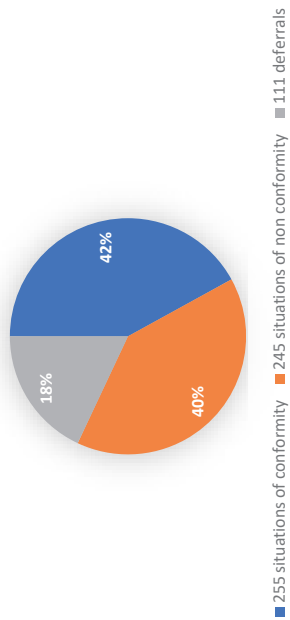
⁶² See : <https://www.coe.int/en/web/european-social-charter/statistics-on-collective-complaints>

Appendix 6

Summary of the European Committee of Social Rights Conclusions 2022⁶³



611 situations examined in 2022



63. See: <https://www.coe.int/en/web/european-social-charter/stats-compliance>

Appendix 7

Number of provisions by year since 1962

Year of ratification/acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1962	1. United Kingdom	60	60				60
	2. Norway	60	120				120
	3. Sweden	66	186				186
1963			186				186
1964	4. Ireland	63	249				249
1965	5. Germany	67	316				316
	6. Denmark	49	365				365
	7. Italy	76	441				441
1966			441				441
1967			441				441
1968	8. Cyprus	43	484				484
1969	9. Austria	62	546				546
1970			546				546
1971			546				546
1972			546				546

Year of ratification/acceptance of additional provisions	CHARTER 1961		REVISED CHARTER 1996		Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	States	Accepted provisions	
1973					546
1974	10. France	72			618
1975					618
1976	11. Island	41			659
1977					659
1978					659
1979					659
1980	12. Netherlands	75			734
	13. Spain	76			810
1981					810
1982					810
1983					810
1984	14. Greece	71			881
1985					881
1986					881
1987					881
1988	15. Malta	55			936

Year of ratification/acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1989	16. Türkiye	46	982				982
1990	17. Belgium	72	1054				1054
1991	18. Finland	66	1120				1120
	19. Portugal	72	1192				1192
	20. Luxembourg	69	1261				1261
1992			1261				1261
1993			1261				1261
1994			1261				1261
1995			1261				1261
1996			1261				1261
1997	21. Poland	58	1319				1319
1998		-66	1253	1. Sweden	83	83	1336
	22. Slovak Republic	64	1317			83	1400
1999		-72	1245	2. France	98	181	1426
		-76	1169	3. Italy	97	278	1567
	23. Hungary	44					
	24. Czech Republic	56	1345	4. Romania	65	343	1688

Year of ratification/acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
		-76	1269	5. Slovenia	95	438	1707
2000			1269	6. Bulgaria	61	499	1768
			1269	7. Estonia	79	578	1847
		-43	1226	8. Cyprus	63	641	1867
		-63	1163	9. Ireland	93	734	1897
2001		-60	1103	10. Norway	81	815	1918
			1103	11. Lithuania	86	901	2004
			1103	12. Republic of Moldova	63	964	2067
2002		-72	1031	13. Portugal	98	1062	2093
		-66	965	14. Finland	89	1151	2116
	25. Latvia	25	990			1151	2141
2003	26. Croatia	43	990	15. Albania	64	1215	2205
2004			1033				1033
			1033	16. Armenia	67	1282	2315
		-72	961	17. Belgium	87	1369	2330
				18. Azerbaijan	47	1416	1416
			961	19. Andorra	75	1491	2452

Year of ratification/acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
2005	27. North Macedonia	41	1002			1491	2493
		-55	947	20. Malta	72	1563	2510
				21. Georgia	63	1626	1626
2006		-75	872	22. Netherlands	97	1723	2595
				23. Ukraine	74	1714	1714
2007		-46	826	24. Türkiye	91	1888	2714
		-44	782	25. Hungary	60	1948	2730
				Bulgaria	1	1949	1949
2008				26. Bosnia and Herzegovina	51	2000	2000
2009		-64	718	27. Slovak Republic	86	2086	2804
				28. Serbia	88	2174	2174
				29. Russian Federation	67	2241	2241
2010				30. Montenegro	66	2307	2307
2011	Poland	-1	717				
		-62	655	31. Austria	76	2383	3039
				Cyprus	9	2392	2392
2012		-41	614	32. North Macedonia	63	2455	3070

Year of ratification/acceptance of additional provisions	CHARTER 1961			REVISED CHARTER 1996			Overall total of the accepted provisions (both Charters)
	States	Accepted provisions	Total	States	Accepted provisions	Total	
				Estonia	8	2463	3078
2013		-25	589	33. Latvia	90	2553	3143
2015				Belgium	4	2557	3147
2016		-71	518	34. Greece	95	2652	3171
2017				Ukraine	2	2654	3173
2021		-60	458	35. Germany	88	2742	3200
		-72	386	36. Spain	98	2840	3226
	United Kingdom	-1	385				3225
2022				Bulgaria	7	2847	3232

Appendix 8

Intervention by Karin Lukas, President of the European Committee of Social Rights, before the Committee of Ministers of the Council of Europe

3 November 2022

Dear Chair, dear Ministers' Deputies (Ambassadors), dear Secretary General, dear Ladies and Gentlemen,

It is with pleasure that I am here before you today to present the latest developments around the European Social Charter but tinged with a little sadness. This will be the last time that I speak to you not only as President of the European Committee of Social Rights but also as a member of this Committee as my second consecutive term will end next month. During my time in the Committee, our societies have gone through drastic transformations impacting social rights, and the European Committee of Social Rights has always strived to interpret the Charter in the light of present-day conditions to keep up with these evolutions and to better protect rights bearers, especially the most vulnerable.

These last couple of years have probably seen the most drastic changes to the social environment where Charter rights operate, with successive crises which need not to be detailed anymore, and which have put extreme strain on the enjoyment of social rights by many on our continent. Against such a backdrop, it appears all the more significant that, over the last couple of years, focus has been placed at your level on how to improve the implementation of Charter rights. This year has been a significant moment in time for the Charter system with the adoption, last September, of an ambitious reform package after a broad consultation process under the aegis of GT-CHARTÉ. The ultimate aim is as always better enjoyment of social rights by all and, in these hard times, in particular those in the most vulnerable situations.

Let me briefly highlight what I think are the most striking aspects of the changes that will benefit the Charter system. First of all, a more targeted and lighter reporting procedure coupled with a more active and effective follow-up by the Governmental Committee and regular proposals of Committee of Ministers recommendations that will act as stepping stones towards enhanced dialogue (exchanges of information, cooperation projects, etc.) with a view to resolving actively non-conformity situations. Secondly, the possibility of ad hoc reports will be a crucial tool to tackle emerging trends or immediate concerns outside the usual constraints imposed by the monitoring calendar. Finally, improvements to the collective complaints procedure, notably with a simplified system for reporting on follow-up to ECSR decisions in complaints.

In parallel to the reform, the European Committee of Social Rights has recently decided to strengthen its follow-up on non-accepted provisions. Since the beginning of the pandemic, this procedure has become entirely written, with no visits in the field. It is high time to recall that acceptance of new provisions should be actively pursued, and that the status quo is not an acceptable option for most states. This is also in the spirit of the reform process. For this reason, in addition to reporting on non-accepted provisions, meetings with the authorities and other stakeholders

will resume in order to identify or even create opportunities for accepting further provisions. Importantly, and in line with decisions of the Deputies, this process will now also focus on States Parties bound by the 1961 Charter, with the aim not only of increasing the number of accepted provisions but also of them ratifying the Revised Charter. There again, the key to progress is through intensified dialogue.

While the reform package adopted this year is to be hailed, efforts to further assert social rights and ensure better implementation should not slacken, quite the contrary. The current context shows that this is no time for complacency. Allow me to say a few words on some interesting leads for further reflection amongst the topics raised within GT-CHARTÉ.

While there seems to be some hesitation for steps that require amendments to the treaties, I strongly believe that we cannot exclude some of these questions too hastily as they are closely linked the effectiveness, and dare I say the credibility, of the system.

Firstly, while perhaps a longer-term objective, the addition of new rights should be given proper consideration in order to take full account of the evolving social context and expectations of the public, such as with the right to a healthy environment and rights related to atypical work. Such a reform process would require a body similar to CHARTE-REL, which involved States representatives and other relevant stakeholders in the review which led to the Revised Charter. It would then also be worth revisiting the personal scope of the Charter. If we think that social rights are human rights, and on an equal footing with civil and political rights, we need to do away with the reciprocity of the personal scope, something which is alien to a human rights perspective which assigns human rights to people regardless of their nationality.

While acknowledging that the immediate context might not be conducive to embarking on treaty amending work, one has to project oneself into the future and already prepare for the issues that will prove crucial to reinforce the Charter system and ensure its continued relevance.

A point that got more traction among delegations is the promotion of the acceptance of the collective complaints procedure. This is without doubt an important asset of the Charter system, deserving acceptance by more States. The procedure adds a democratic dimension by giving the initiative to the social partners in a genuinely adversarial procedure, that gives the States every opportunity to make their case and explain the situation as they see it. However, serious thought must be given as to what new measures can be taken to attract further acceptance of the collective complaints mechanism, as this is by no means a new endeavour. Another aspect that would deserve attention is the recognition of the right of national non-governmental organisations (NGOs) to lodge complaints by default for all States

Parties concerned, rather than needing special declarations from States as is currently the case.

Finally, let me stress that, for the reform to be truly successful, the unavoidable question of adequate resources to match the needs must be addressed in earnest. Now more than ever, this is crucial in order to maintain the quality, and therefore relevance, of the Charter system.

I have painted in broad brushstrokes aspects that I think should be taken up in priority in future steps of the ongoing reform process. Let me now quickly look back on what has been achieved since I was last before you.

In March, the 2021 conclusions on health, social security and social protection were published. Marked by the Covid-19 pandemic, this was reflected in several targeted questions addressed to States Parties following on the European Committee of Social Rights 2021 statement on Covid-19 and social rights. The issues tackled ranged from health and safety at work to the protection of health and measures to reduce poverty and social exclusion. The European Committee of Social Rights seized this opportunity to make statements of interpretation to clarify the way Charter rights should be interpreted in the light of today's circumstances, including on: Digital disconnect (or a right to disconnect) and the electronic monitoring of workers (Article 3§2); the social coverage for platform workers (Article 12§3); and age discrimination not only in employment but also in accessing services (Article 23).

The adoption by the Committee of Ministers of 19 recommendations on the pay gap between women and men following conclusions 2020 on Article 20(c) is a welcome development, very much in line with the general thrust of the reform that calls for stronger follow-up to conclusions from the Governmental Committee and Committee of Ministers as a basis for further dialogue between Charter organs and States Parties in order to improve the implementation of Charter rights.

Since our last exchange of views in October 2021, 13 new collective complaints have been lodged, raising issues pertaining, *inter alia*, to housing, protection of health during the pandemic, the legal and judicial protection of elderly persons, and collective bargaining, to name a few. During the same period, the European Committee of Social Rights has adopted a total of 14 decisions. The principled approach now taken by the Committee of Ministers in recommendations on complaints decisions is to be commended. At the same time, coming back to what I alluded earlier about adequate means, the European Committee of Social Rights with the resources currently at its disposal has difficulties in keeping up with the number of complaints being lodged and the considerable backlog of previous years has increased.

As evidence to the good dialogue already taking place with States Parties, a meeting with the government agents in the complaints procedure with the Bureau of the European Committee of Social Rights will take place tomorrow, on 4 November.

Let me conclude on this positive note, which is a good reminder that reinforced dialogue between Charter organs and States Parties, which is at the heart of the reform on operational measures that will enter into force next year, is vital to the effective implementation of Charter rights. Dialogue with the ultimate aim to realise the implementation of social rights to the benefit of all.

Thank you very much.

Appendix 9

Statement of Karin Lukas, President of the European Committee of Social Rights on the situation in Ukraine

10 March 2022

As President of the European Committee of Social Rights, I am deeply concerned by the Russian military aggression against Ukraine.

This is having fatal consequences in terms of the lives and human rights of the people in Ukraine, including their enjoyment of social rights as set out in the European Social Charter.

The conflict has already resulted in the biggest refugee crisis in Europe since World War II. The basic social rights of refugees must be respected wherever they are and at all times, so as to ensure dignity for all.

When signing and ratifying the Charter, the member States of the Council of Europe agreed to guarantee to their populations the social rights protected by the Charter in order to secure and improve their standard of living and their well-being.

I would like to express my solidarity with the people in Ukraine and with those who have been forced to leave Ukraine. The aggression must cease without delay, so that work can start in order to re-establish the conditions necessary for the attainment in Ukraine of all rights and principles set out in the Charter.

Appendix 10

Selection of events organised in 2022

- ▶ Online – 2/02/2022
Training for National Human Rights Institutions and National Equality Bodies on how to engage with the ECSR under the ESC monitoring procedures
A. NOLAN, N. CASEY, T. MONTANARI
- ▶ Rome (Italy) – 22/02/2022
[Conference on Social Resilience and Health Equity: A human right prospective for better resilience and preparedness](#)
K. LUKAS, G. PALMISAN
- ▶ Online – 1/03/2022
Workshop on preparing national reports under the reporting procedure of the European Social Charter- Project “Strengthening Protection of Social and Economic Rights in Georgia”
T. PUIU, T. NOZADZE
- ▶ Tbilisi, Georgia – 2/03/2022
[Workshop on preparing alternative reports within the reporting procedure of the European Social Charter](#)
T. PUIU
- ▶ Tbilisi, Georgia – 15-16/03/2022
[Workshop on non-accepted provisions of the European Social Charter vis-à-vis national legislation in Georgia](#)
M. MIKKOLA, M. SCHLACHTER, T. PUIU
- ▶ 26-28/04/2022
Meeting of the Drafting Committee on Trafficking for the Purpose of Labour Exploitation (DH-TET), 26-28 April 2022, organised by the Steering Committee for Human Rights
M. KULLMAN, J. FABER
- ▶ Online – 10/05/2022
The European Social Charter at Sixty: Achievements, Challenges and Prospects for the Protection of Social Rights in Europe, organised by the Ireland/UK Branch of the Academic Network on the European Social Charter and Social Rights
A. NOLAN
- ▶ Groningen – 13/05/2022
International Conference on Tobacco, Law and Human Rights: crossing borders, spaces and substances: “Tobacco and the right to protection of health – a view from the European Social Charter” Conference organised by the The Global Health Law Groningen Research Centre and the University of Groningen
A. NOLAN

- ▶ Online – 13/05/2022
Annual Conference: Regulating working time in times of digital and agile work, organised by the European Centre of Expertise (ECE) in the field of Labour Law on behalf of the Directorate General for Employment, Social Affairs and Inclusion of the European Commission
E. CHEMLA, J. HAJDÚ, B. KRESAL, M. KULLMANN, M. VINKOVIC, N. CASEY, C. COJOCARIU, H. KRISTENSEN, A. KUZNETSOVA, K. MICHAILOVSKYTE
- ▶ Paris, France – 16/05/2022
The European Contribution to the Rights to Housing. Standards, Litigation and Advocacy, organised by Housing Rights Watch and Abbé Pierre
G. PALMISANO
- ▶ Online – 17-18/05/2022
15th UniDem Med Regional Seminar for Senior Administration Officials: Public Service Policies: Paradigms for Change”, organised by the Venice Commission in cooperation with the General Staff Council of Palestine
E. CHEMLA
- ▶ Strasbourg, (hybrid event) – 25/05/2022
Colloquium: “Droits sociaux et harmonisation sociale en Europe : quelles avancées ?” at the University of Strasbourg
E. CHEMLA, P. STANGOS
- ▶ [Osijek, Croatia, 26-27/05/2022](#)
1st [Croatian](#) and 10th Regional Congress of Social Work Students
M. VINKOVIĆ
- ▶ 26-27 May 2022
Seminar on the European Social Charter, the European Committee of Social Rights and Spain, University of Alcalá de Henares, organised by Raul Canosa and Encarna Carmona
K. LUKAS, A. UBEDA, L. VIOTTI
- ▶ Strasbourg – 6/07/2022
[Informal exchange of views](#) with a delegation from the [European Trade Union Confederation](#) (ETUC)
- ▶ Strasbourg – 14/09/2022
5th meeting of the Drafting Group on Human Rights and Environment (CDDH-ENV)
G. PALMISANO
- ▶ Izmir, Turkiye – 22-24/09/2022
[Meeting of the Committee on Social Affairs, Health and Sustainable Development](#)
K. LUKAS
- ▶ Strasbourg – 6/10/2022
[Committee of Ministers’ informal meeting on the Environment and Human Rights](#)

- ▶ Strasbourg – 3/11/2022
Exchange of views between Karin LUKAS, President of the European Committee of Social Rights, and the Committee of Ministers, 3 November 2022
K. LUKAS
- ▶ Dublin, Ireland – 3/11/2022
Panel discussion: "The Council of Europe at a Crossroads"
B. BERGE, A. NOLAN, F. O'LOUGHLIN
- ▶ Online – 4/11/2022
7th informal meeting between the Bureau of the ECSR and the agents of governments
E. CHEMLA, K. LUKAS, A. NOLAN, G. PALMISANO, H. KRISTENSEN, L. VIOTTI
- ▶ Ferrara (Italy) – 10-11 November 2022
Panel discussion: "The effectiveness of the European Social Charter and the decisions of the European Committee of Social Rights in the national legal orders"
G. PALMISANO, N. CHITASHVILI, G. DUNN
- ▶ Brussels (Belgium) – 15/11/2022
Netlex Conference,
M. KULLMANN, C. POIREL
- ▶ Brussels, 24-25/11/2022
Conference to celebrate the European Day of People with Disabilities (EDPD), organised by the EU Commission and the European Disability Forum,
G. PALMISANO
- ▶ 6/12/2022
CDDH Workshop on "Implementing human rights and environmental due diligence"
K. LUKAS
- ▶ Strasbourg – 8/12/2022
Strengthening the implementation of social rights in Europe – the role of the European Social Charter"
E. CHEMLA

Appendix 11

Selection of judicial decisions from 2022 referring to the European Social Charter

Poland

Constitutional Court, K 20/15, 28.03.2022 – reference to the Article 4§2 of the ESC: an analysis of whether to regard this provision as a standard of scrutiny, or as an argument to determine whether the case involves a legislative omission (the application questioned the failure of Polish rules on compensation for overtime worked by employees to meet certain standards arising from the ESC).

Supreme Administrative Court, III OSK 3754/21, 16.11.2022 – reference to Article 12(1) to (4) of the ESC: definition of service to the state and refusal to restore the applicant's police pension.

Voivodship Administrative Court in Warsaw, II SA/Wa 2768/21, 16.03.2022 – the applicant relied on Article 31 of the Revised European Social Charter of the Council of Europe, deriving from it the right of access to healthy, adequate and affordable housing and, in the absence of various means of ensuring a decent existence, to benefit from housing assistance. The court did not address this.

Supreme Administrative Court, III OSK 2536/21, 6.09.2022 – the reference to Article 1 of the ESC: time limit for termination of firefighter's service relationship the submission of an application for dismissal from service allows the dismissal before the date indicated by the interested party in the application for dismissal.

France

L'arrêt Cass., Soc., 11 mai 2022, Sté FSM, n° 21-15.247 (extrait 1) rejette en effet l'effet direct de l'article 24 de la Charte sociale révisée. Les arguments invoqués pour ce faire permettent de rejeter l'effet direct de l'ensemble des dispositions de la Charte sociale européenne, considérées comme ne contenant que des principes et objectifs d'une part, dont le contrôle appartient exclusivement au Comité européen des Droits sociaux, d'autre part. La doctrine majoritaire a été très critique vis-à-vis de cet arrêt.

La Cour d'appel de Saint Denis de la Réunion a fait application de cette interprétation jurisprudentielle à plusieurs reprises en 2022. Dont changement d'argumentation entre son arrêt du 19 mai 2022 (extrait 2) (qui rejette l'effet direct du seul article 24 en raison de la marge d'appréciation laissée aux Etats par cette disposition) et les suivants (extraits 3) (qui rejettent l'effet direct de l'ensemble de la Charte sociale) va encore dans le sens du rejet total de l'effet direct de la Charte sociale devant les juridictions judiciaires françaises.

Le Conseil d'Etat rejette de façon inédite l'effet direct de l'article 7§2 de la Charte (extrait 4) et de façon implicite, l'effet direct de son article 6 (Extrait 5). Une Cour administrative d'appel rejette l'effet direct de l'article 13 conformément à la jurisprudence constante du Conseil d'Etat.

Ireland

Costello -v- The Government of Ireland, Ireland and the Attorney General

Judgment delivery date: 11/11/2022; Court: Supreme Court; Judge: O'Donnell C.J.

Reference to the Charter: "...The European Social Charter for its part permits complaints by representative bodies. Finally, and in any event, the principle of sovereignty is one which might be thought to be one which, by very definition, did not admit of exceptions..."

Minister for Justice and Equality -v- Krimelis

Judgment delivery date: 05/05/2022

Court: High Court; Judge: Biggs J. Reference to the Charter: "...In Comments by the Ombudsman of the Republic of Latvia on the 7th National Report on the implementation of the European Social Charter submitted by the Government of the Republic of Latvia for the period 2016-2019, registered 13th July 2021, the Ombudsman cited the proper remuneration of health care professionals as an important issue..."

United Kingdom

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The Netherlands

Court	Date	ECLI	ESC
Rechtbank Midden-Nederland	08-avr-22	ECLI:NL:RBMNE:2022:1299	6(4)
Rechtbank Midden-Nederland	17-mars-22	ECLI:NL:RBMNE:2022:1125	17, 31
Rechtbank Rotterdam	03-oct-22	ECLI:NL:RBROT:2022:8316	31
Rechtbank Midden-Nederland	15-juin-22	ECLI:NL:RBMNE:2022:2337	17, 31
Rechtbank Rotterdam	09-mai-22	ECLI:NL:RBROT:2022:3651	17, 31
Rechtbank Midden-Nederland	15-févr-22	ECLI:NL:RBMNE:2022:531	17, 31
Rechtbank Den Haag	22-nov-22	ECLI:NL:RBDHA:2022:13241	6(4)
Raad van State	02-mars-22	ECLI:NL:RVS:2022:643	12, 16
Rechtbank Midden-Nederland	15-févr-22	ECLI:NL:RBMNE:2022:532	17, 31

Court	Date	ECLI	ESC
Rechtbank Amsterdam	11-nov-22	ECLI:NL:RBAMS:2022:6515	31
Rechtbank Den Haag	07-nov-22	ECLI:NL:RBDHA:2022:11600	17, 31
Rechtbank Amsterdam	09-nov-22	ECLI:NL:RBAMS:2022:7270	ESC in general
Rechtbank Amsterdam	09-nov-22	ECLI:NL:RBAMS:2022:6603	17, 31
Rechtbank Rotterdam	25-mars-22	ECLI:NL:RBROT:2022:2260	ESC in general
Rechtbank Midden-Nederland	18-juil-22	ECLI:NL:RBMNE:2022:2823	ESC in general
Rechtbank Rotterdam	31-mars-22	ECLI:NL:RBROT:2022:2361	ESC in general
Rechtbank Midden-Nederland	26-oct-22	ECLI:NL:RBMNE:2022:4262	13, 14
Rechtbank Rotterdam	06-juil-22	ECLI:NL:RBROT:2022:5474	1
Gerecht in Eerste Aanleg van Aruba	02-mars-22	ECLI:NL:OGEEA:2022:41	6(4)
Gerecht in Eerste Aanleg van Aruba	30-mars-22	ECLI:NL:OGEEA:2022:129	6(4)
Gerecht in Eerste Aanleg van Aruba	30-mars-22	ECLI:NL:OGEEA:2022:130	6(4)
Gerecht in Eerste Aanleg van Aruba	30-mars-22	ECLI:NL:OGEEA:2022:219	6(4)
Gerecht in Eerste Aanleg van Aruba	30-mars-22	ECLI:NL:OGEEA:2022:220	6(4)
Gerecht in Eerste Aanleg van Aruba	02-mars-22	ECLI:NL:OGEEA:2022:40	6(4)
Gerecht in eerste aanleg van Sint Maarten	28-janv-22	ECLI:NL:OGEAM:2022:5	6(4)
Gerecht in eerste aanleg van Curaçao	10-juin-22	ECLI:NL:OGEAC:2022:187	6(4)

Spain

STSJ Cataluña de 30/05/2022, Rec. 538/2022 (indemnisation licenciement sans cause barème art. 24 CSEr)

STSJ Cataluña de 16/09/2022, Rec. 1959/2022 (indemnisation licenciement sans cause barème art. 24 CSEr)

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The European Social Charter, adopted in 1961 and revised in 1996, is the counterpart of the European Convention on Human Rights in the field of economic and social rights. It guarantees a broad range of human rights related to employment, housing, health, education, social protection and welfare.

No other legal instrument at pan-European level provides such an extensive and complete protection of social rights as that provided by the Charter.

The Charter is therefore seen as the Social Constitution of Europe and represents an essential component of the continent's human rights architecture.

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The Council of Europe is the continent's leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.



European
Social
Charter

Charte
sociale
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