

# ACTIVITY REPORT 2016



## European Committee of Social Rights



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# **Activity Report 2016**

**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 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.

European Social Charter Department  
Council of Europe  
Directorate General  
Human Rights and Rule of Law  
F – 67075 Strasbourg Cedex  
Tel. +33 (0)3 90 21 49 61  
social.charter@coe.int  
[www.coe.int/socialcharter](http://www.coe.int/socialcharter)

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# Introduction by Giuseppe Palmisano, President of the European Committee of Social Rights

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## Twenty years after: the Revised Social Charter as a living instrument

**T**his year we have celebrated the 20th anniversary of the Revised Social Charter, which was signed the 3rd of May 1996.

In 1996 the Revised Charter was the culmination of a reform process which started few years before and took the form of three protocols, adopted in 1988, 1991 and 1995. The idea underlying the reform was both to make the Charter more effective by aligning it as closely as possible with the European Convention on Human Rights, and to modernize it, by adding new rights, in order to properly take into consideration the individual and collective social needs which were emerging in a changed world. One could say that, by virtue of the institutional reforms started in those years, the Council of Europe has intended to give a substantial and effective meaning to the principle that human rights are indivisible, and that social rights are human rights on an equal footing with civil and political rights.

The outcome of this reform process has been very positive, in normative terms. In fact, the Revised Charter is still today, at the European (and universal) level, the most wide-ranging and comprehensive legal instrument for the protection of social rights. More than any other international and European instrument, the Revised Charter ensures the essential social needs of individuals in their daily lives. The common rationale of all its provisions is the assumption that human beings must have the right to enjoy decent living conditions as members of the organized community in which they live: conditions such as to allow them to live in dignity, rather than merely survive. At the same time, from the standpoint of the political and legal commitment required by States Parties, it can be said that the European Social Charter, more than any other international instrument, pushes States to provide themselves with an advanced and efficient public welfare system.

But the Revised Charter is not a mere “bill of rights”; that is a simple catalogue of rights that States declare to uphold, or which they try to promote. It also provides for a specific monitoring mechanism aimed at guaranteeing the implementation of the obligations assumed by States parties, which – albeit not overcoming the well-known limits of almost all international mechanisms of control and monitoring – has indeed some impact on national laws and practices (and by consequence, on the effective enjoyment of the rights by the individuals and groups protected by the Charter).

And it is a living instrument. By virtue of the evolving jurisprudence of the European Committee of Social Rights and its interpretation of the Charter intended as a human rights treaty, the Revised Charter reveals enormous potential to continuously address emerging and persisting social needs, to cope with old and new problems in ensuring respect for social rights.

This has been confirmed, in 2016, by the event of the ratification of the Revised Charter by Greece, to which a special tribute should be paid for its commitment to social rights, and in particular to the example it has set by assuming greater responsibility for the safeguard of these rights in times of economic crisis. The deposit of the Greek instrument of ratification significantly took place in Turin, on the occasion of the public Forum on Social Rights in Europe, the 18<sup>th</sup> of March 2016, within the framework of the so-called “Turin process”, the day after an important inter-parliamentary Conference of the Council of Europe member States, dedicated to the European Social Charter. The “Turin process”, that is the set of ongoing high-level initiatives launched in 2014 by the Secretary General of the Council of Europe, which is aimed at re-situating the Charter at the centre of the European human rights architecture and the European political stage, is an evident acknowledgement of both the potential of the Charter as a living instrument, and the need to take advantage of such potential, to better protect social rights and strengthen the European “social model”.

The European Committee of Social Rights, being fully aware of its responsibility to meet this need, as well as of its crucial role in applying the Charter and protecting social rights, has therefore committed itself – in the past year – to increase its efforts in performing the whole range of its manifold activities, which have been only made possible by the substantial support of the entire staff of the Department of the European Social Charter.

Starting by the reporting procedure, the Committee in examining the implementation of the provisions of the Charter belonging to the thematic group “Employment, training and equal opportunities” had the opportunity to deal with some important tools for overcoming the current economic and social crisis in Europe, such as employment, training and equal opportunities on the labour market, including equal treatment of non-nationals. In its scrupulous analysis of the situation in the States concerned, the Committee took into careful consideration not only information provided for in the state reports and in documents adopted by international and European institutions, but also comments on state reports submitted by different trade unions and non-governmental organisations, which were often crucial in gaining a proper understanding of the national situations concerned. And even if the Committee was indeed able to identify some comforting and promising developments concerning

the implementation of the Charter at national level, the analysis revealed a number of shortcomings in essential areas, such as the facilitation of vocational training, the protection of workers against moral/psychological harassment, and the right to strike.

With respect to the reporting procedure, I would like to point out that, following the changes adopted by the Committee of Ministers in 2014, this past year the Committee has not assessed the situation concerning “Employment, training and equal opportunities” in seven out of fifteen of the States which have accepted the collective complaints procedure, namely the States belonging to “Group B”: the Netherlands, Sweden, Croatia, Norway, Slovenia, Cyprus, and the Czech Republic. In fact, such States were exempted from submitting the “ordinary” report on the thematic group of provisions, but they were invited to submit a “simplified” report on follow-up to collective complaints.

To conclude with the reporting system, I wish to recall that the Committee examined also the reports on conclusions of non-conformity for lack of information adopted by the Committee the preceding year (2014). Let me say that this reporting exercise has indeed proved to be very useful. States parties provided further and more precise information on their respective national situations, and this led the Committee to timely reverse a number of 2013 conclusions (pertaining to the thematic group “Children, families and migrants”) from a finding of non-conformity to a finding of conformity.

2016 has been an year of intense activity also in what concerns the collective complaints procedure. Several decisions on the merits were adopted in complex cases, concerning *inter alia*: the right of workers to protection in case of termination of employment in Finland; the provision of family housing for Roma in the Czech Republic; the right of the members of the National *Gendarmerie* in France to organize and bargain collectively; social security protection for “Justices of the Peace” (*Giudici di pace*) in Italy.

The Committee also significantly progressed in the assessment of other important complaints, such as Complaint n. 111/2014, lodged by the General Confederation of Labour (GSEE) against Greece, concerning the social side effects of so-called austerity measures. With respect to this complaint, a public hearing took place in Strasbourg the 20<sup>th</sup> of October 2016. At the hearing, the Greek State was represented by the Minister of Labour, Mr George Katrougalos, and the complainant organization by the GSEE President, Mr Yannis Panagopoulos. Representatives of the European Union, ETUC and IOE took part in the hearing.

The high level and active participation in the hearing is testimony to the importance of the issues at stake in this complaint, as well as to the acknowledgement of the legal and political impact of the collective complaints procedure, which is not punitive but aims at strengthening the social dialogue at the domestic and European level, and therefore can indeed play an effective role in furthering the respect of social rights in Europe. Such acknowledgement is confirmed by the increasing number of complaints that have been lodged in 2016: 21 new complaints, as against the 6 complaints of 2015 and the 10 complaints of 2014.

A part from adopting conclusions on State reports and issuing decisions on collective complaints, in 2016 the Committee committed itself to other noteworthy activities and initiatives.

Let me start by mentioning the ongoing exchanges with both the Governmental Committee and the agents of the Governments before the Committee, which is testified to by two fruitful meetings, held in January and, respectively, in July 2016. The aim of such meetings was, in one case, to clarify possible critical or controversial substantive issues stemming from the assessment of national reports, within the framework of the reporting procedure and, in the other case, to deal with procedural or practical issues relating to the collective complaints mechanism, with a view to improving the functioning and fairness of this quasi-judicial procedure.

The Committee's Contribution to the European Social Cohesion Platform is also noteworthy. Such Platform has been created as an ad hoc committee with a two-year mandate from January 2016 to December 2017, with the aim of accompanying the efforts of integration of the social aspects in all Council of Europe activities. It is open to all member States, institutions and committees of the Council of Europe, international institutions and other relevant stakeholders. The first meeting of the Platform took place on the 27-28 June 2016, in Strasbourg.

I would then recall the very positive cooperation with the Parliamentary Assembly of the Council of Europe, which has been characterized, in the past year, by two meetings. The first one was in Turin on March, on the occasion of the already mentioned inter-parliamentary Conference dedicated to the Social Charter; and the second was the Parliamentary Seminar held in Paris, on the 28<sup>th</sup> of October, on "The right of children and young people to social, legal and economic protection". The increasing Parliamentary Assembly's interest in, and interaction with, the system of the Social Charter is also revealed by the fact that the Committee on Social Affairs of the Assembly, on January 2016, appointed Ms Sílvia Eloísa Bonet (from Andorra) as special Rapporteur on the specific topic of the "Turin process" for the European Social Charter.

This last remark leads me to point out that, consistently with one of the most crucial objectives of the "Turin process", that is improving the synergies between the Social Charter system and the European Union law, the Committee in 2016 continued and reinforced its dialogue with the EU institutions. In this regard let me refer to the exchange of views with the President of the Court of Justice of the European Union, Judge Koen Lenaerts, which was held in Strasbourg during the October session of the Committee. But I wish also to refer to the dialogue between the Committee and the EU Commission about the forthcoming "European Pillar of Social Rights", which is expected to be adopted by the EU in 2017, as a self-standing reference document of a legal nature, setting out key principles and values shared at EU level. Such a dialogue took place mostly on two occasions: the Turin Forum on social rights, on March, and the Workshop on "The European Social Charter and European Pillar of Social Rights", which took place on 8 December in Strasbourg. Let me sincerely express the hope that the drafting of the "Pillar" can give the European Union the opportunity to achieve the result of a better consideration of the European Social Charter in the process of adopting EU legislative acts, policy measures and judicial decisions.

The December Workshop on "The European Social Charter and European Pillar of Social Rights" was organised in honour of my dear colleagues Lauri Leppik, Colm O'Conneide and Elena Machulskaya, on the occasion of their last session as members of the Committee. I would therefore like to conclude this Introduction by heartily

thanking all three for their valuable commitment to the Committee's activities, and by paying a special tribute, in particular, to Colm O'Cinneide (former Vice-President and former General Rapporteur of the Committee) and Lauri Leppik (General Rapporteur of the Committee) for their remarkable contribution to the Committee's case law, which deserves lasting recognition.

Giuseppe Palmisano  
Strasbourg, January 2017



# 1 – Overview of activities and key figures

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**T**he European Committee of Social Rights was set up by Article 25 of the 1961 Charter and its function is to rule on the conformity of the law and practice of the States Parties under the 1996 revised European Social Charter, the 1988 Additional Protocol and the initial 1961 European Social Charter. It is made up of 15 independent members elected by the Committee of Ministers<sup>1</sup>.

The Committee conducts its supervision through 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 organisations to lodge complaints against States Parties that have agreed to be bound by this procedure.<sup>2</sup>

The national reports and the collective complaints are examined during the Committee's sessions, seven in 2016:

- ▶ 289<sup>th</sup> Session: 5-9 December 2016
- ▶ 288<sup>th</sup> Session: 17-21 October 2016
- ▶ 287<sup>th</sup> Session: 5-9 September 2016
- ▶ 286<sup>th</sup> Session: 4-8 July 2016
- ▶ 285<sup>th</sup> Session: 17-20 May 2016
- ▶ 284<sup>th</sup> Session: 15-17 March 2016
- ▶ 283<sup>rd</sup> Session: 26-28 January 2016

Conclusions 2016<sup>3</sup> (Revised Social Charter) and XXI-2<sup>4</sup> (Charter from 1961) on the thematic group I "Employment, training and equal opportunities" were presented at a press conference on 25 January 2017 during the first session of the Committee for 2017.

In 2016, the Committee examined reports presented by 34 States Parties<sup>5</sup> describing how they implement the Charter in law and in practice as regards the provisions covered by the thematic group "Employment, training and equal opportunities": Articles 1, 9, 10, 15, 18, 20<sup>6</sup>, 24 and 25 (see Chapter 4 for more details). The reports cover the period from January 2011 until December 2014. At its 289<sup>th</sup>

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1. The composition of the Committee in 2016 appears in Appendix 1.
  2. In response to national reports, the Committee adopts conclusions; in response to collective complaints, it adopts decisions.
  3. Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Estonia, Finland, France, Georgia, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Republic of Moldova, Montenegro, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, "The former Yugoslav Republic of Macedonia", Turkey and Ukraine.
  4. Denmark, Germany, Iceland, Poland, Spain and the United Kingdom.
  5. State reports of Albania and Luxembourg could not be examined because they were not submitted in time.
  6. Articles 20, 21, 22 and 23 of the Revised Charter correspond to Articles 1, 2, 3 and 4 of the 1988 Additional Protocol.

session, held on 5-9 December 2016, the Committee adopted a total of 577 conclusions, including 64 conclusions relating to findings of non-conformity for lack of information in Conclusions 2014 and 513 conclusions with regard to the examined thematic group.

As a result, it was possible to identify several problems that a large number of States Parties encounter when applying the Charter:

- ▶ Insufficient protection against discrimination in employment on different grounds such as gender and sexual orientation;
- ▶ Insufficient integration of persons with disabilities in the mainstream education, labour market and society;
- ▶ Insufficient guarantee of equal rights between men and women in particular as regards equal pay;
- ▶ Inadequate employment policy efforts to combat unemployment and promote job creation.

There has been some progress, however, in the implementation of the Charter's rights, particularly in the rights of persons with disabilities where several countries have improved their legal framework and have adopted appropriate measures to protect the rights of persons with disabilities, vocational guidance and training systems are now well established in the majority of the States examined.

As to the collective complaints procedure, 21 new complaints were lodged in 2016. The Committee adopted five decisions on the merits, three on admissibility and three on both admissibility and the merits. Decisions on the merits related in particular to the right of conscientious objection to health workers in Italy in the framework of the right to abortion; the situation of travellers in Ireland and Roma in the Czech Republic; the lack of trade union rights for military gendarmes personnel in France; the right of social security, in particular pension rights of Justices of the Peace in Italy.

The complaints registered in 2016 were lodged against all States Parties. They were submitted by two international non-governmental organisations (INGOs), four national trade unions and one national organisation.

In July 2016, the Committee held an informal meeting with the Governments' agents appointed in the context of the collective complaints procedure (see section 3.8 below).

The Committee also held a public hearing in Complaint No. 111/2014, Greek General Confederation of Labour (GSEE) v. Greece, on 20 October 2016.

Furthermore, the Committee held an exchange of views with the President of the Court of Justice of the European Union (CJEU), Koen Lenaerts, on 20 October 2016, on issues of mutual interest, related in particular to recent developments in the case law of the two bodies (see section 8.1 below).

During its sessions, the Committee held meetings with representatives of several Council of Europe bodies (see Chapter 7 below) and other international bodies (see Chapter 8 below).



Several Committee delegations made a contribution by taking part in bilateral meetings with a number of countries in 2016 to discuss the following points:

- ▶ the Committee's findings in previous supervision cycles and the assessment in the current cycle of those countries' policies concerning their Charter undertakings;
- ▶ the procedure on non-accepted provisions of the Charter laid down by Article 22 of the 1961 Charter (see section 5 below);
- ▶ the ratification of the revised Charter and the collective complaints procedure for states that have not yet done so<sup>7</sup>.

Several seminars and training courses on the Charter and the Committee's case-law were held in a number of countries and involved various former or current members of the Committee. The Committee was also represented at international conferences and events on human rights-related issues. A selection of these meetings appears in Appendix 3.

Continuing the trend of recent years, the Charter and the Committee's decisions and conclusions were cited in numerous judgments and decisions by national courts and by other international bodies (see Appendix 4) as well in many academic works published in 2016 (see Appendix 5).

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7. State of signatures and ratifications of the 1961 Charter, its Protocols and the European Social Charter (revised) at 1 January 2017 in Appendix 2.



## 2 – Composition of the European Committee of Social Rights

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**T**he composition of the Committee 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 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.

During their 1272<sup>nd</sup> meeting on 30 November 2016, the Ministers’ Deputies elected three new members of the European Committee of Social Rights: Aoife Nolan (Irish), Kristine Dupate (Latvian) and Barbara Kresal (Slovenian). Karin Lukas (Austrian) and Giuseppe Palmisano (Italian) were re-elected for a second 6-year term. The term of office for these members begins on 1 January 2017 and ends on 31 December 2022.

A new Bureau was elected from among the Committee members at the January session in 2017: Giuseppe Palmisano was elected as President, Monika Schlachter and Karin Lukas as Vice-Presidents and Eliane Chemla as General Rapporteur.



# 3 – Collective complaints procedure

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## 3.1. Overview

In 2016, the procedure established by the Additional Protocol of 1995 providing for a system of collective complaints, which came into force on 1 July 1998, had been accepted by 15 States party to the Charter: Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia and Sweden.

Over the period from 1998 to 2016, 140 collective complaints were lodged with the European Committee of Social Rights. The Committee handed down 221 decisions as follows: 112 decisions on admissibility including 5 decisions on inadmissibility, 94 decisions on the merits, 8 decisions on both admissibility and the merits, 5 decisions on immediate measures including 1 decision on admissibility and immediate measures and 2 decisions to strike out a complaint.

21 new complaints were lodged in 2016. During the seven sessions it held in 2016, the European Committee of Social Rights adopted 5 decisions on the merits, 3 on admissibility and 3 on both admissibility and the merits.

The 21 complaints registered in 2016 were lodged against all States Parties bound by the procedure. They were submitted by two international NGOs and four national trade unions, and one national organisation. For the list of these 21 complaints and the state of procedure, see Appendix 6.

The average processing time was 3,5 months for the 3 decisions on admissibility and 22.4 months for the 5 decisions on the merits. In comparison, the average times for the whole period from 1998-2016 were 4.8 months for admissibility decisions and 12.8 months for decisions on the merits.

For more detailed figures on the status of complaints by country at the end of 2016 and on the number of decisions handed down by the Committee between 1998 and 2016, see Appendix 7.

## 3.2. Decisions made public in 2016

In 2016, the six (6) following decisions on the merits were made public; the first 2 of these had been adopted by the Committee in 2015:

■ On 11 April 2016, the decision on admissibility and the merits in *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 91/2013 became public. The decision was adopted by the Committee on 12 October 2015.

CGIL alleged that the inadequate implementation of Section 9§4 of Act No. 194/1978, which regulates the conscientious objection of medical practitioners and personnel in relation to abortion services, is in violation of Article 11 of the

Charter, read alone or in conjunction with the non-discrimination clause in Article E, in that it does not protect the right guaranteed to women with respect to access to abortion services.

CGIL also alleged a violation of Article 1, as well as Articles 2, 3 and 26 of the Charter, the latter Articles read either alone or in conjunction with the non-discrimination clause in Article E, on the grounds that the Government has failed to protect the rights of medical practitioners involved in the provision of abortion services.

In its decision on the merits, the Committee declared unanimously the complaint admissible and concluded:

- ▶ unanimously that there is a violation of Article 16 of the Charter on the grounds of insufficient provision of accommodation for Travellers;
- ▶ unanimously that there is a violation of Article 11§1 of the Charter;
- ▶ by 9 votes to 2, that there is a violation of Article E read in conjunction with Article 11 of the Charter;
- ▶ by 6 votes to 5, that there is a violation of Article 1§2 of the Charter on the grounds of the difference in treatment between objecting and non-objecting medical practitioners;
- ▶ unanimously that there is no violation of Article 1§2 of the Charter in relation to the allegation of forced or compulsory labour;
- ▶ unanimously that there is no violation of Article 2§1 of the Charter;
- ▶ unanimously, that there is no violation of Article 3§3 of the Charter;
- ▶ by 7 to 4, that there is a violation of Article 26§2 of the Charter.

A separate concurring opinion was issued by Petros Stangos. A separate dissenting opinion was issued by Giuseppe Palmisano and joined by Lauri Leppik, Elena Machulskaya, Eliane Chemla and Raul Canosa Usera.

The Committee of Ministers adopted Resolution CM/ResChS(2016)3 on 6 July 2016.

■ On 16 May 2016, the decision on the merits in *European Roma Rights Centre (ERRC) v. Ireland*, Complaint No. 100/2013 became public. The decision was adopted by the Committee on 1 December 2015.

The ERRC alleged that the situation in Ireland is not in conformity with Articles 16, 17 and 30 either alone or in conjunction with Article E of the Charter, on the grounds that the amount and standard of housing and accommodation provided to Travellers is insufficient and that Ireland had failed to create and implement a sufficiently strong legislative framework for ensuring the respect of the housing and accommodation rights of Travellers. The ERRC submitted also that certain legislative provisions on evictions as well as the *de facto* situation violate the Charter. Lastly, it alleged that the above-mentioned violations further give rise to a breach of the education rights of Traveller children as guaranteed by the Charter.

In its decision on the merits, the Committee concluded:

- ▶ unanimously that there is a violation of Article 16 of the Charter on the grounds of insufficient provision of accommodation for Travellers;

- ▶ by 6 votes to 5 that there is no violation of Article E in conjunction with Article 16 of the Charter regarding the insufficient provision of accommodation;
- ▶ unanimously that there is no violation of Article 16 of the Charter regarding the legislative framework on Traveller accommodation;
- ▶ unanimously that there is a violation of Article 16 of the Charter on the grounds many Traveller sites are in an inadequate condition;
- ▶ unanimously that there is a violation of Article 16 of the Charter on the grounds that the Criminal Justice (Public Order) Act 1994 (as amended) provides for inadequate safeguards for Travellers threatened with eviction;
- ▶ unanimously that there is no violation of Article E read in conjunction with Article 16 of the Charter regarding the Criminal Justice (Public Order) Act 1994 (as amended);
- ▶ unanimously that there is a violation of Article 16 of the Charter on the grounds that the Housing (Miscellaneous Provisions) Act 1992 (as amended) provides for inadequate safeguards for Travellers threatened with eviction;
- ▶ unanimously that there is no violation of Article 16 of the Charter or of Article E in conjunction with Article 16 regarding the Roads Act 1993;
- ▶ unanimously that there is no violation of Article 16 of the Charter or of Article E in conjunction with Article 16 regarding the Planning and Development Act 2000;
- ▶ unanimously that there is no violation of Article 16 of the Charter or of Article E in conjunction with Article 16 regarding the Local Government (Sanitary Services) Act 1948;
- ▶ unanimously that there is no violation of Article 16 of the Charter or of Article E in conjunction with Article 16 regarding the Public Health Act 1978 (as amended);
- ▶ unanimously that there is a violation of Article 16 of the Charter on the grounds that evictions are carried out in practice without the necessary safeguards;
- ▶ unanimously that there is no violation of Article 17 or of Article E in conjunction with Article 17 of the Charter;
- ▶ by 10 votes to 1 that there is no violation of Article 30 or of Article E in conjunction with Article 30 of the Charter.

In addition it invited the Committee of Ministers to recommend that Ireland pay the complainant organisation the sum of €2,000 as compensation for expenses incurred.

A separate dissenting opinion was issued by Petros Stangos.

The Committee of Ministers adopted Resolution CM/ResChS(2016)4 on 5 October 2016.

■ On 4 July 2016, the decision on the merits in European Council of Police Trade Unions (CESP) v. France, Complaint No. 101/2013 became public. The decision was adopted by the Committee on 27 January 2016.

The CESP alleged that the situation in France is not in conformity with Articles 5 and 6 of the Charter on the ground that officers, non-commissioned officers and volunteers of the National gendarmerie (“members of the Gendarmerie”) are excluded from the scope of the trade union rights guaranteed in the said provisions.

In its decision on the merits, the Committee unanimously concluded:

- ▶ that there is a violation of Article 5 of the Charter where the National Gendarmerie is functionally equivalent to a police force;
- ▶ that there is no violation of Article 5 of the Charter where the National Gendarmerie is functionally equivalent to an armed force;
- ▶ that there is no violation of Article 6§1 of the Charter;
- ▶ that there is a violation of Article 6§2 of the Charter

The Committee of Ministers adopted Resolution CM/ResChS(2016)5 on 5 October 2016.

■ On 5 October 2016, the decision on the merits in *Bedriftsforbundet v. Norway*, Complaint No. 103/2013 became public. The decision was adopted by the Committee on 17 May 2016.

*Bedriftsforbundet* alleged that Norway is in violation of Article 5 of the Charter on the grounds that in its view, there is a consistent and long term practice at Norwegian ports requiring that employees are members of the dock workers union, the Norwegian Transport Workers Union (NTF) in order to be recruited and to be continued to be employed.

In its decision on the merits, the Committee unanimously concluded:

- ▶ that there is no violation of Article 5 of the Charter;

The Committee of Ministers adopted Resolution CM/ResChS(2016)6 on 5 October 2016, thus making the decision public.

■ On 28 October 2016, the decision on the merits in *European Roma and Travellers Forum (ERTF) v. the Czech Republic*, Complaint No. 104/2014 became public. The decision was adopted by the Committee on 17 May 2016.

The ERTF alleged that the situation in the Czech Republic is not in conformity with Article 16 of the 1961 Charter either alone or in conjunction with the Preamble on the grounds that Roma suffer a) from a lack of accessible housing, b) residential segregation, c) inadequate living conditions and d) forced evictions, as well as Article 11 of the 1961 Charter either alone or in conjunction with the Preamble on the grounds that Roma face discrimination in access to health care and suffer from poor health status due *inter alia* to inadequate living conditions and on the grounds that Romani children are often misdiagnosed with mental or health disabilities and enrolled in special schools.

In its decision on the merits, the Committee unanimously concluded:

- ▶ that there is a violation of Article 16 of the 1961 Charter on the ground of insufficient access to housing, poor housing conditions and territorial segregation;



- ▶ that there is a violation of Article 16 of the 1961 Charter on the ground of forced evictions;
- ▶ that there is a violation of Article 11 of the 1961 Charter on the grounds of exclusion in the field of health and of inadequate access to health care services;
- ▶ that there is no violation of Article 11 of the 1961 Charter on the grounds of segregation of Roma children.

The Committee of Ministers adopted Resolution CM/ResChS(2017)2 on 28 February 2017.

On 16 November 2016, the decision on the merits in *Associazione Nazionale Giudici di Pace v. Italy*, Complaint No. 102/2013 became public. The decision was adopted by the Committee on 6 July 2016.

ANGdP alleged that the situation in Italy is not in conformity with Article 12 (the right to social security) of the Charter on the ground that the Italian law does not provide any social security protection for Justices of the Peace (*giudici di pace*), a category of lay judges. ANGdP also alleged that there is discrimination of Justices of the Peace in matters of social security in comparison with tenured judges and other categories of lay judges.

In its decision on the merits, the Committee unanimously concluded:

- ▶ that there is a violation of Article E in conjunction with Article 12§1 of the Charter.

### 3.3. Complaint declared inadmissible

On 18 October 2016, the European Committee of Social Rights adopted its decision on admissibility in *Fellesforbundet for Sjøfolk (FFFS) v. Norway*, Complaint No. 120/2016.

FFFS alleged that the situation in Norway amounts to a violation of Article 12 (the right to social security) of the Charter on the ground that prior to 1994 Spanish seamen working on ships under Norwegian jurisdiction were excluded from the social security system and in particular from the old age and disability pension schemes.

In its decision on admissibility, the Committee unanimously declared the complaint inadmissible on the ground that, as a consequence of its reservation, whilst Norway was bound by the 1961 Charter it was not obliged to grant under the 1961 Charter, social security rights to foreign seamen not domiciled in Norway.

### 3.4. Public hearing

In *Greek General Confederation of Labour (GSEE) v. Greece*, Complaint No. 111/2014, at the request of the complainant organisation, the Committee held a public hearing on 20 October 2016 at the Human Rights Building in Strasbourg. The following participants appeared:

a) for the GSEE

- ▶ Mr Yannis Panagopoulos, President;
- ▶ Mr Aris Kazakos, Professor of labour law, Aristotle University, Thessaloniki;

- ▶ Ms Sofia Kazakou, Legal adviser;
- ▶ Ms Ellie Varchalama, Legal adviser.

*b) for the Government*

- ▶ Mr George Katrougalos, Minister of Labour, Social Security and Social Solidarity;
- ▶ Ms Daphne Akoumaniaki, Legal Advisor to the Minister;
- ▶ Mr Spyros Roussakis, Legal Advisor to the Minister;
- ▶ Ms Panagiota Margaroni, Administrator, International Relations Department, Ministry of Labour, Social Security and Social Solidarity; Government Agent before the European Committee of Social Rights.

*c) for the IOE*

- ▶ Ms Alessandra Assenza, Adviser ;
- ▶ Mr Harry Kyriazis, Executive Vice Chairman, SEV ;
- ▶ Mr Antonio Vayas.

*d) for the ETUC*

- ▶ Ms Esther Lynch, Confederal Secretary;
- ▶ Mr Klaus Lörcher, Human Rights Advisor, Representative of the ETUC at the Steering Committee on Human Rights (CDDH);
- ▶ Mr Stefan Clauwaert, Senior Researcher at the European Trade Union Institute (ETUI), ETUC representative in the Governmental Committee.

*a) for the EU*

- ▶ Mr Benjamin Bollendorff, Deputy to the Head of the European Union Delegation to the Council of Europe.

### 3.5. Further decisions adopted in 2016

Furthermore, the following decisions adopted by the European Committee of Social Rights' will become public in 2017:

- ▶ the decision on admissibility and the merits in *Finnish Society of Social Rights v. Finland*, Complaint No. 107/2014 was adopted on 6 September 2016. The decision became public on 31 January 2017;
- ▶ the decision on admissibility and the merits in *Finnish Society of Social Rights v. Finland*, Complaint No. 106/2014 was adopted on 8 September 2016. The decision became public on 31 January 2017;
- ▶ the decision on the merits in *Associazione sindacale "La Voce dei Giusti" v. Italy*, Complaint No. 105/2014 was adopted at the 288<sup>th</sup> Committee's session (at the time of writing, the decision had not yet been made public) ;
- ▶ the decision on admissibility and the merits in *Finnish Society of Social Rights v. Finland*, Complaint No. 108/2014 was adopted at the 289<sup>th</sup> Committee's session (at the time of writing, the decision had not yet been made public).

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

In the event of violation of the Charter, the State concerned is asked to notify the Committee of Ministers of the Council of Europe of the measures taken or planned to bring the situation into conformity.

The Committee of Ministers may adopt a resolution, by a majority of those voting. The resolution takes account of the respondent State's declared intention to take appropriate measures to bring the situation into conformity.

If the State in question does not indicate its intention to bring the situation into conformity, the Committee of Ministers may also adopt a recommendation to the State. In view of the importance of this decision, a two-thirds majority of those voting is required here. In the case of both resolutions and recommendations, only States Parties to the Charter may take part in the vote.

The Committee of Ministers' decision is based on social and economic policy considerations. The Committee of Ministers cannot reverse the legal assessment made by the European Committee of Social Rights.

As regards the practical organisation of the follow-up, the Committee of Ministers instructed in February 2012 its Group of Rapporteurs on social and health issues (GR-SOC) to consider the decisions of the European Committee of Social Rights in the context of the system of collective complaints with a view to making proposals for draft resolutions.

In 2016, the Committee of Ministers adopted four (4) resolutions concerning four (4) complaints:

- ▶ CM/ResChS(2016)6

Resolution - *Bedriftsforbundet v. Norway*, Complaint No. 103/2013 (Adopted by the Committee of Ministers on 5 October 2016 at the 1267<sup>th</sup> meeting of the Ministers' Deputies)

- ▶ CM/ResChS(2016)5

Resolution - *European Council of Police Trade Unions (CESP) v. France*, Complaint No. 101/2013, (adopted by the Committee of Ministers on 5 October 2016 at the 1267<sup>th</sup> meeting of the Ministers' Deputies)

- ▶ CM/ResChS(2016)4

Resolution - *European Roma Rights Centre (ERRC) v. Ireland*, Complaint No. 100/2013, (adopted by the Committee of Ministers on 5 October 2016 at the 1267<sup>th</sup> meeting of the Ministers' Deputies)

- ▶ CM/ResChS(2016)3

Resolution - *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 91/2013, (adopted by the Committee of Ministers on 6 July 2016 at the 1262<sup>nd</sup> meeting of the Ministers' Deputies)

### **3.7. Reform of the system for the follow-up of collective complaints**

At the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the Committee of Ministers adopted new changes to the Charter's monitoring system. The most important aim of the changes is to simplify the reporting system for States Parties having accepted the Collective Complaints procedure. Following these modifications, the following countries: Croatia, Cyprus, Czech Republic, the Netherlands, Norway, Slovenia and Sweden were exempted from reporting on the provisions under examination in Conclusions 2016. These countries were instead invited to provide information on the follow-up given to decisions on the merits of collective complaints in which the Committee found a violation.

In 2016, in the framework of the follow-up to the decisions of the European Committee of Social Rights on collective complaints, the Committee examined these simplified national reports and noted that the following situations have been brought into conformity with the Charter:

- ▶ Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009.

In its decision on the merits, the Committee concluded that there was a violation of Article 31§2 on the grounds shelter is not provided to children unlawfully present in the Netherlands for as long as they are in its jurisdiction.

In the assessment of the follow-up of the decision as to the claims under Articles 31§2 and 17§1c, the Committee takes note of the measures that have been taken in order to ensure that shelter is provided to children unlawfully present in the Netherlands for as long as they are in its jurisdiction.

The Committee considers that the situation has been brought into conformity with Articles 31§2 and 17§1c of the Charter.

- ▶ Confederation of Swedish Enterprise v. Sweden, Complaint No. 12/2002, decision on the merits of 22 May 2003.

In its decision on the merits, the Committee concluded that there was a violation of Article 5 of the Charter on the ground that pre-entry closed shop clauses set out in certain collective agreements reserving in practice employment for members of a certain union restrict workers' free choice as to whether or not to join one or other of the existing trade unions or to set up separate organisations of this type.

In the assessment of the follow-up of the decision as to the claim under Article 5, the Committee recalls that in Conclusions 2014, it has taken note that there were no pre-entry closed shop clauses in the collective agreements of the electricity and painting sectors, and concluded that the situation was in conformity with Article 5 of the Charter.

### **3.8. Informal meeting between the Bureau of the European Committee of Social Rights and the Governments' agents**

Article 25 of the Rules of the Committee provides in particular that "the State shall be represented before the Committee by the agents they appoint". The third informal

meeting between the Bureau of the Committee and the agents of the Governments was held on 4 July 2016, in the context of which various procedural and technical issues were examined relating to the collective complaints procedure.

With regard to the recent evolutions in the processing of collective complaints, it was underlined that the Committee was revising its Rules and Working methods with a view to improve and speed up the procedure. The following provisions from the Committee's Rules were in particular underlined:

- ▶ Rule 29 (*Observations on the admissibility*): the delay for presentation of the observations on admissibility was extended to 6 weeks;
- ▶ Rule 31 (*Written procedure between the Parties*): the deadline for submissions on the merits was extended to 2 months;
- ▶ Rule 32A (*Third party intervention - Request for observations*): the deadline for submissions of third parties was extended to 2 months;
- ▶ Rule 31A : termination of the proceedings: definition;
- ▶ Rules 31 and 33 (*Hearing*): If a request for a hearing is granted it would take place only after the elapse of 2 months;
- ▶ Rule 40 (*Measures required to bring the situation into conformity*): introduction of the simplified reporting procedure.

This meeting was an opportunity to engage a fruitful and constructive discussion in particular on the following items:

- ▶ to ensure expressly that parties are treated on an equal basis under Rule 31§3 of the Rules (*Written procedure between the parties*);
- ▶ to enable that additional information could be submitted after the closing of the procedure under Rule 31§4 of the Rules;
- ▶ costs and expenses related to the procedure of collective complaints;
- ▶ follow-up to the decisions on collective complaints and reporting system.



# 4 – Reporting procedure

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## 4.1. Overview

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

In 2016, the Committee examined state reports on the application of provisions belonging to the thematic group "Employment, training and equal opportunities":

- ▶ the right to work (Article 1);
- ▶ the right to vocational guidance (Article 9);
- ▶ the right to vocational training (Article 10);
- ▶ the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15);
- ▶ the right to engage in a gainful occupation in the territory of other Parties (Article 18);
- ▶ the right to equal opportunities between women and men (Article 20);
- ▶ the right to protection in cases of termination of employment (Article 24);
- ▶ the right of workers to the protection of their claims in the event of the insolvency of their employer (Article 25).

State reports of the following 34 countries were examined:

Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Malta, Republic of Moldova, Montenegro, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Spain, "The former Yugoslav Republic of Macedonia", Turkey, Ukraine and United Kingdom.

State reports of Albania and Luxembourg could not be examined because they were not submitted in time.

State reports were due on 31 October 2015. They covered the reference period 2011 to 2014.

In addition, the Committee examined reports from certain States on conclusions of non-conformity for repeated lack of information in Conclusions 2014 (Labour rights).

Finally, the Committee examined reports from 5 States Parties (Czech Republic, the Netherlands, Norway, Slovenia and Sweden)<sup>8</sup> on the follow-up undertaken by these States in cases where the Committee had found breaches of the Charter following complaints lodged by different organisations under the collective complaints procedure. The follow-up to a total of 9 decisions on the merits was examined concerning a wide variety of Charter rights. The Committee's findings were adopted in September 2016 (and made public in October 2016).

In 2016, the Committee adopted 513 conclusions on employment, training and equal opportunities in respect of the 34 States, including some 166 findings of violations of the Charter (32%). There were 262 conclusions of conformity (51%), whereas the number of "deferrals" (cases where the Committee was unable to assess the situation due to lack of information) amounted to 85 cases (17%).

In respect of situations of non-conformity for repeated lack of information in Conclusions 2014 the Committee adopted 64 conclusions. In 16 of these, the Committee concluded that the situation had been brought into conformity, in 39 it reiterated the finding of violation (either due to a continued lack of information or on substantive grounds) and in 9 cases the Committee deferred its conclusion.

As regards follow-up to collective complaints the Committee examined the follow-up to a total of 21 violations arising from the 9 decisions on the merits under consideration. In 4 cases the Committee found that the violation had been remedied by appropriate follow-up and in 2 cases it reserved its position pending receipt of more detailed information. In all the remaining the Committee held that the violation had not yet been remedied.

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

The problems highlighted here following the publication of the 2016 Conclusions refer to the issue of discrimination of which all forms should be prohibited. As a general principle, the Committee affirmed that ensuring equal treatment required a precise body of law prohibiting discrimination as well as legal and political measures to realise equality in practice and make the prohibition of discrimination fully effective.

Under Article 152, legislation should prohibit discrimination in employment. 56% of the national situations examined did not comply with this requirement on grounds such as missing definition of discrimination and insufficient protection against discrimination in employment, for example due to sexual orientation.

Discrimination in access to employment due to disability is prohibited under Article 152. Of the examined national situations, 41% were in violation of the Charter. These violations relate primarily to insufficient integration of persons with disabilities into the ordinary labour market. They also relate to the failure to provide for reasonable

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8. Croatia did not submit a report on follow-up and in respect of Cyprus there were no decisions concerned.



accommodation or to the lack of legislation expressly prohibiting discrimination in employment on the ground of disability.

As for the right to equal opportunities between men and women (Article 20), the Committee found that sex discrimination took place in 40% of the national situations examined. Most violations resulted from the maintenance of restrictions on the employment of women or were related to wage discrimination.

The Conclusions 2016 also show a number of positive developments which have taken place during the period under consideration.

A number of States Parties passed legislation to promote the right of persons with disabilities (Article 15). For example: the Russian Federation passed Laws setting out measures aimed at helping persons with disabilities to integrate into the labour market. Legislation prohibiting all discrimination, including discrimination based on disability, entered into force in the Republic of Moldova and in Ukraine.

Article 20 (The right to equal opportunities between women and men) is another provision where progress could be noted during the period under consideration. Here are some examples: Armenia adopted a law which prescribes equal rights and opportunities for women and men. Austria passed legislation to prevent discrimination by ensuring effective and proportionate compensation. Belgium approved a federal law combating the gender pay gap.

	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006
Examined situations	576	824	724	568	608	950	569	572	425	839	915
Conformity	277	452	337	277	277	459	271	281	185	363	461
	48%	55%	46%	49%	45%	48%	48%	49%	43%	43%	50%
Non-conformity	204	278	252	181	156	256	184	164	126	230	244
	35%	34%	35%	32%	26%	27%	32%	29%	30%	28%	27%
Deferral	95	94	135	110	175	235	114	127	114	246	210
	16%	11%	19%	19%	29%	25%	20%	22%	27%	29%	23%

Legend: Committee's assessments of conclusions 2006-2016

## 4.2. Provisions concerned

An overview of the Committee's main findings in 2016 is presented article by article below. A complete table of the Committee's conclusions for 2016 per country and per article can be found in Appendix 8.

### ► The right to work (Article 1)

In view of the continued economic crisis it is perhaps not surprising that the Committee found an important number of countries to be in breach of Article 1§1 which

obliges States to pursue a policy of full employment and to adequately assist the unemployed. 13 States (38%), namely Armenia, Bosnia and Herzegovina, Bulgaria, “The former Yugoslav Republic of Macedonia”, Georgia, Greece, Italy, the Republic of Moldova, Montenegro, Portugal, Serbia, Spain and Ukraine were found not to have demonstrated that their efforts in terms of job creation, training and assistance for the unemployed were adequate in the light of the economic situation and the level of unemployment.

Article 1§2 concerns discrimination in employment and prohibition of forced labour as well as related issues such as work of prisoners, domestic work, minimum periods of service in the armed forces and the right to privacy at work.

Under Article 1§2 of the Charter legislation must prohibit any discrimination in employment, both direct and indirect. Discrimination should be prohibited in connection with recruitment or with employment conditions in general (remuneration, training, promotion, transfer and dismissal and other detrimental action).

In 2016 the Committee examined 34 national situations of which 19 (56%) were found not to be in conformity with the Charter on several grounds, such as follows:

First, the absence of a clear and comprehensive definition and prohibition of direct and indirect discrimination covering all aspects of employment and occupation, including recruitment, as well as insufficient protection against discrimination in employment, in particular observed on grounds of sexual orientation in the Russian Federation, Armenia and Turkey.

Second, the existence of upper limits on the amount of compensation that may be awarded in discrimination cases may preclude damages from making good the loss suffered and from being sufficiently dissuasive in Armenia, Turkey and Ireland.

Third, under Article 1§2 of the Charter, while it is possible for States to make foreign nationals’ access to employment on their territory subject to possession of a work permit, they cannot issue a general ban on nationals of States Parties. In this connection, the Committee found that some States, such as France, Republic of Moldova, Belgium and Latvia impose excessive restrictions on non-EEA nationals to access civil service posts or the profession of advocate.

Furthermore, the Committee found three States (Bulgaria, Georgia, Portugal) to be in violation of Article 1§2 regarding the prohibition of forced labour. In Bulgaria the rules governing railway management staff contain coercive provisions incompatible with Charter’s request to ban forced labour. In Georgia, forced labour exists in the domestic environment and in family businesses. In Portugal, seafarers abandoning their posts risk prison sentences.

As regards other aspects of the right to earn one’s living in an occupation freely entered upon guaranteed under Article 1§2, the Committee found 4 States in violation of the Charter:

- ▶ Armenia, where the duration of alternative civil service is too excessive;
- ▶ Ireland, where army officers cannot seek early termination of their commission unless they repay to the state at least part of the cost of their education and training;

- ▶ Turkey, where local government officials and employees can be suspended or transferred on the ground that their employment constituted a threat to security in general, and
- ▶ Georgia, where the right of workers to earn their living in an occupation freely entered upon is not properly guaranteed.

**Article 153** provides for the right to free employment services. The main function of such services is to place unemployed jobseekers in employment as well as employed workers looking for another job. Basic placement services such as registration of jobseekers and notification of vacancies must be provided free of charge for both employees and employers and must be effective.

In order to assess the effectiveness of employment services, the Committee looks at a number of performance indicators, such as the number of vacancies notified to employment services, the number of placements made by these services, the average length of time in filling vacancies and respective market shares of public and private services.

The Committee's conclusions reflect a moderate level of compliance with the provisions of Article 153 with an overall total of 18 conclusions of conformity or 53% and 8 conclusions of non-conformity. In respect of the other 8 situations related to Articles 153, the Committee needs further information in order to examine the situation.

Under this article, the most common grounds of non-conformity concerned the lack of measures taken by public authorities to improve the functioning of employment services (Georgia, Greece, Slovak Republic, Spain,) and lack of information provided (Armenia, Azerbaijan, Romania, Ukraine).

#### ▶ **The right to vocational guidance (Article 9)**

Article 9 deals with the vocational guidance provided respectively in the education system and on the labour market. In the former case, it is intended to help pupils choose a subsequent course of training or an occupation. In the latter, it is aimed primarily at unemployed persons or persons who have given up full-time education, but also at workers who wish to take up their studies again, attend a training course or specialise in a particular field to take their career forward or to change their occupation.

At all events, guidance must be provided: (1) without discrimination between nationals of the States Parties to the Charter and without any length-of-residence requirement; (2) free of charge; (3) by skilled professionals, in sufficient numbers; (4) to as many beneficiaries as possible; (5) with sufficient financial back-up. Where states have not accepted Article 15, as is the case with Azerbaijan and Bosnia and Herzegovina, the Committee examines the issue of vocational guidance for persons with disabilities under Article 9.

The Committee's examination did not highlight any particular problems of substance apart from the difficulty of assessing the effectiveness of national systems on the basis of reliable statistics regarding the number of beneficiaries and human and budgetary resources available. Vocational guidance services are often provided as

part of other services at schools and employment agencies or made available to all users without distinction via electronic means or events such as job fairs or open days.

In 8 countries out of 34 (24%), the Committee considered that not enough information had been provided to establish that the situation was in conformity (Azerbaijan, Bosnia and Herzegovina, Republic of Moldova, Montenegro, Russian Federation, Serbia, Slovak Republic, Ukraine).

► **The right to vocational training (Article 10)**

Under Article 10§1 the States Parties are under the obligation to ensure access to general and vocational secondary education, university and non-university higher education and to build bridges between secondary and higher vocational education. Moreover, they must take measures to make secondary and higher vocational education qualifications relevant from the perspective of professional integration in the job market.

The Committee examined 25 national situations of States Parties and found that the majority of them comply with Article 10§1. In other cases, such as Montenegro, the Committee found that insufficient measures were taken to match the skills acquired through vocational training with the labour market requirements and thus to bridge the gap between education and work. In Ukraine and the Slovak Republic the Committee did not find it established that secondary and higher vocational education system operates in an efficient manner.

Under 10§2 of the Charter apprenticeship is a training based on a contract of employment between the employer and the apprentice that leads to vocational education. It must combine theoretical and practical training and close ties must be maintained between training establishments and the working world. The Committee considered that 20 of the national situations (90%) were in conformity with the Charter, except for Montenegro, Georgia, Slovak Republic and Ukraine, where the Committee did not find enough evidence that apprenticeship system worked in an efficient manner.

Under Article 10§3 of the Charter States must take preventive measures against deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic development. The indicators of particular interest when it comes to vocational training for the unemployed are the number of participants, the development in national expenditure and the results of the effort, i.e. the employment effect. 9 out of 24 States (36%) were found to comply with Article 10§3, whereas in the case of 12 States the Committee had to reserve its position due to lack of information at its disposal on relevant indicators. As regards long-term unemployed persons (Article 10§4), the Committee found that in Georgia and Montenegro special measures for the retraining and reintegration of the long-term unemployed have not been effectively provided or promoted.

Under Article 10§5 the States must provide financial assistance for secondary and higher vocational training either universally or subject to a means-test, or on the basis of the merit. In any event assistance should be available for those in need and shall be adequate. It may consist of scholarships or loans at preferential interest rates.

The States Parties who impose a permanent residence requirement or any length of residence requirement on nationals of other States Parties in order for them to apply for financial aid for vocational education and training are in breach of the Charter. In this respect, the Committee found that the situation in 8 out of 20 States (40%) is not in conformity with the Charter due to length of residence requirements imposed on non-EEA nationals to qualify for loans and scholarships.

► **The right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15)**

As to the right of persons with disabilities to guidance, education and vocational training (Article 15§1), the Committee found in 11 of the 28 countries concerned (39%) that the situation was not in conformity with the Charter, mainly because the right to integration into the mainstream system was not effectively guaranteed in the sphere of education (Austria, Belgium, Ukraine, Romania) or did not appear to be guaranteed in the sphere of education (Hungary), training (Romania) or either (Montenegro, Serbia, “The former Yugoslav Republic of Macedonia”, Turkey). In one situation (France), the Committee found that it was not possible from the available information to establish that the right of persons with disabilities to education and vocational training was guaranteed. Lastly, in two situations, the Committee arrived at a finding of non-conformity because of shortcomings in the anti-discrimination legislation (Denmark, Iceland).

With regard to access for persons with disabilities to employment (Article 15§2), the Committee identified 12 situations of non-conformity (out of a total of 29, or 41%). These related primarily to the insufficient integration of persons with disabilities into the ordinary labour market (Greece, Romania, Serbia, Ukraine) or the fact that the information available did not make it possible to establish that persons with disabilities were effectively guaranteed equal access to employment (France, Montenegro, Republic of Moldova), that the legal obligation to provide reasonable accommodation was respected (France, Montenegro, Russian Federation, Serbia, Turkey, Ukraine) or that persons with disabilities enjoyed effective protection against discrimination in employment (Armenia, Hungary, Turkey). Another country (Iceland) was found to lack legislation expressly prohibiting discrimination in employment on the ground of disability.

In over half of the countries examined (11 out of 19, or 58%), the Committee highlighted shortcomings affecting the social integration of persons with disabilities (Article 15§3). These shortcomings were the result in particular of the actual absence (Estonia, Belgium) or presumed absence (Andorra, Armenia, Montenegro, Serbia, Turkey, Ukraine) of protection against discrimination in all the areas covered by the Charter (housing, transport, telecommunications, culture and leisure) with regard to matters including the effectiveness of remedies (Andorra, Hungary), full access to aids designed to help people overcome disabilities (France, Ireland) and effective access to transport and/or housing (Armenia, France, Hungary, Serbia).

► **The right to engage in a gainful occupation in the territory of other Parties (Article 18)**

Under Article 18, the Committee examines the systems by which foreign workers are granted work permits. While taking account of the agreements on the free movement of workers which apply between certain member states (particularly within the European Economic Area), it checks, on the basis of statistics concerning work permit rejection rates, that access for workers from other member countries of the Charter are not subject to excessive restrictions in practice (Article 18§1). It also checks that no excessive restrictions result from the formalities involved in issuing permits, including any fees charged (Article 18§2), or from the criteria for granting or renewing them, including requirements linked to professional qualifications (Article 18§3). Lastly, it checks that no unwarranted restrictions are applied to nationals wishing to work abroad (Article 18§4).

Under Article 18§1, 4 countries out of 22 (18%), were subject to a finding of non-conformity (Germany, Spain, Italy, Portugal) because they failed to provide any proper figures in reply to the Committee's previous requests.

In 30% of the countries examined (6 out of 20), the Committee found that the formalities tied up with granting work permits were still an obstacle to the free movement of workers because it was impossible to obtain a residence and a work permit through one and the same procedure, whether in the country or from abroad (Iceland, Serbia, Slovak Republic), because the fees charged for permits were considered excessive (Ireland, United Kingdom), or because not enough information had been provided to establish the country's conformity in this respect (Ukraine).

Excessively restrictive requirements for permits to be issued were found to apply in 7 countries out of 19 (37%). In particular, in some cases, the Committee found that the information provided in response to its questions did not make it possible to establish that the regulations had been liberalised (Germany, Iceland) or confirmed that excessive restrictions had been maintained (Italy, Turkey). In other cases, the Committee issued a finding of non-conformity where the loss of a foreign worker's job automatically resulted in the early withdrawal of his or her residence permit (Belgium, Iceland, Republic of Moldova, Turkey, Ukraine).

Practically every country met the requirements of Article 18§4 except one (1 out of 29 (3%)), which still imposed undue restrictions on the right of national workers to leave the country to engage in a gainful occupation abroad (Russian Federation).

► **The right to equal opportunities between women and men (Article 20)**

In 12 of the 30 countries (40%), the Committee found that there was sex discrimination in the labour market. Most violations resulted from the maintenance of restrictions on the employment of women in certain occupations, including work underground or under water and night work (Azerbaijan, Bosnia and Herzegovina, Russian Federation, Republic of Moldova, Montenegro, Turkey).

Other situations of non-conformity arose from wage discrimination, either because the legislation did not explicitly guarantee equal pay for work of equal value (Georgia) or because this was not guaranteed in practice in view of the excessive pay gap

between women and men (Armenia, Azerbaijan, Estonia). More generally speaking, the Committee considered that in some countries the right to equal opportunities in employment without discrimination on the ground of sex was not or did not appear to be guaranteed in practice (Bosnia and Herzegovina, Serbia, Ukraine).

In other cases, the Committee considered that full respect for the right to equal opportunities was not ensured because of shortcomings in the area of available remedies, for example where the legislation did not allow pay comparisons between companies to be made in equal pay disputes (Malta), where it did not provide for the burden of proof to be shifted in sex discrimination cases (Azerbaijan, Russian Federation, Ukraine) or where there was an upper limit on the compensation that could be paid in such cases (Armenia, Turkey).

► **The right to protection in cases of termination of employment (Article 24)**

Under Article 24 of the Charter the States are obliged to establish regulations with respect to the termination of employment (at the initiative of the employer) for all workers who have signed an employment contract. Article 24 establishes in an exhaustive manner the valid grounds on which an employer can terminate an employment relationship. Two types of grounds are considered valid, namely on the one hand those connected with the capacity or conduct of the employee and on the other hand those based on the operational requirements of the enterprise (economic reasons). The Committee examined national situations in 21 States and found that in 8 cases (38%) the situation was not in conformity with the Charter.

While in the absolute majority of the States having accepted this provision the legislation prohibits dismissal without a valid ground and provides for remedies and redress in case of unlawful dismissal, the Committee found that in a number of States, such as Armenia, Montenegro and Malta, the legislation permits dismissal of the employee at the initiative of the employer on the ground that the former has reached the normal pensionable age, which is contrary to the Charter.

In Bulgaria, Italy, Malta and Ireland the Committee found that the duration of the probationary period during which employees may be excluded from protection against dismissal is excessively long (six months).

► **The right of workers to protection of their claims in the case of insolvency of the employers (Article 25)**

The Committee examined the situation in 15 countries under Article 25.

The Committee found the situation in 3 countries (20%) not in conformity with Article 25 for not guaranteeing adequate protection of workers' claims in the event of the insolvency of the employer.

In Belgium and in Portugal, the ground of non-conformity is that the average time to satisfy workers' claims in case of insolvency of their employer is excessive.

The situation in Turkey is not in conformity with Article 25 of the Charter on the grounds that:

- ▶ holiday pay due as a result of work performed during the year in which the insolvency or the termination of employment occurred is not covered by Turkish legislation;
- ▶ the amounts due in respect of other types of paid absence relating to a prescribed period which shall not be less than three months under a privilege system and eight weeks under a guarantee system are not covered by Turkish legislation.

### 4.3. Examples of progress

When preparing Conclusions 2016, the European Committee of Social Rights noted the positive developments in the States Parties, as they appeared in the national reports on the implementation of the Charter.

The Committee welcomes these developments which contribute to a better implementation of the Charter at national level and invites 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 regarding countries bound by the 1961 Charter (Greece, Spain and the United Kingdom) and countries bound by the Revised Charter of 1996 (Andorra, Armenia, Austria, Belgium, Estonia, Finland, France, Georgia, Hungary, Italy, Lithuania, Malta, Republic of Moldova, Montenegro, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, “The former Yugoslav Republic of Macedonia” and Ukraine).

#### 4.3.1. Greece

##### Article 10§1

Law No. 4186 of 17 September 2013 restructures the adult training system. In the educational framework outside the formal education system – initial vocational training – pupils can obtain certificates which are recognised at national level following initial and in-house vocational training and the general training of adults.

##### Article 15

- ▶ Law No. 4115 of 30 January 2013 provides for the conversion of special education and training schools into special education and training support centres and the establishment of a school network for education and support.
- ▶ Law No. 3996/2011 on reforming the Labour Inspectorate, regulating Social Security matters and other provisions, which came into force on 5 August 2011, set up the body of labour inspectors who are henceforth responsible for monitoring the implementation of the principle of equal treatment with regard to persons with disabilities, for advising employers and employees in this field and for ensuring that they comply with the reasonable accommodation obligation.



## 4.3.2. Spain

### Article 10§1

Since 2006 when the Organic Law of Education entered into force a total of 148 vocational education qualifications have been developed of which 108 were developed during 2011-2014.

### Article 15

Royal Decree 10/2011 of 26 August 2011 on urgent measures to promote youth employment, support job stability and maintain vocational retraining programmes for those who have exhausted their unemployment benefits is aimed at improving the skills of young people.

## 4.3.3. The United Kingdom

### Article 15

The Children and Families Act 2014 received Royal Assent on 13 March 2014. Part 3 of the Act applies to England only and sets out a new framework for children and young people who have special educational needs and disabilities.

## 4.3.4. Andorra

### Article 20

In its decision of 27 March 2014, the Civil Division of the Supreme Court of Justice held that it was for the company to prove that the dismissal of one of its employers was not an act of discrimination.

## 4.3.5. Armenia

### Article 15

Law on Employment, which came into force on 1 January 2014 and sets out measures to be taken to help persons with disabilities integrate into the labour market.

### Article 20

On 20 May 2013 the National Assembly of the Republic of Armenia adopted the "Law on ensuring equal rights and equal opportunities for women and men", which prescribes guarantees for ensuring equal rights and equal opportunities for women and men in political, social, economic, cultural and other areas of public life.

## 4.3.6. Austria

### Article 15

The Insurance Law Amendment Act (*Versicherungsrecht-Änderungsgesetz*) of 2013 introduced special protection against discrimination for people with disabilities into the Insurance Contract Act (*Versicherungsvertragsgesetz*).

## Article 18

- ▶ The quota system (Bundeshöchstzahl) was repealed as of 1 January 2014.
- ▶ The Red-White-Red Card and the EU Blue Card systems were introduced in 2011, has simplified the formalities for obtaining the documents needed for engaging in a professional occupation, in that it has established a combined residence and work permit (administered through a “one-stop shop”).

## Article 20

The legislation was amended as of 1 August 2013 to expressly address court proceedings, specifying that the awarded compensation must be effective and proportionate as well as suited to preventing discrimination.

### 4.3.7. Belgium

#### Article 1§2

On 19 March 2012, the German-speaking Community adopted a decree on the fight against certain forms of discrimination, which prohibits direct and indirect discrimination based on “nationality, alleged race, colour, descent or national or ethnic origin; age, sexual orientation, religious or philosophical belief or disability; sex and related criteria such as pregnancy, childbirth and maternity or transsexualism; civil status, birth, wealth, political ideas, trade union affiliation, language, current or future state of health, physical or genetic characteristics or social background”. It applies to all persons, both in the public and in the private sector, including in public bodies, with regard to labour and employment relations.

#### Article 20

At federal level, the law on combating the gender pay gap was adopted on 22 April 2012 and requires measures to combat the wage gap to be negotiated at inter-occupational, sectoral and company level.

### 4.3.8. Estonia

#### Article 9

Since 2012, the Unemployment Insurance Fund provides counselling also to persons who are not registered as unemployed. Accordingly, under the programme “Increasing the availability of career services” funded by the European Social Fund, career counselling is now available to all people, regardless of their labour market status.

#### Article 10§4

The Reform programme “Estonia 2020” expressly targets the integration and skills development of ‘long-term unemployed’. This strategy aims to decrease the long-term unemployment rate to 2.5% by 2020.

### 4.3.9. Finland

#### Article 18§2

The procedure allowing foreign nationals to receive a personal identity number has been simplified: as a result, as from the end of 2014, they do no longer need to apply for their personal identity number but can receive it together with their first residence permit.

### 4.3.10. France

#### Article 20

Act 2012-1189 of 26 October 2012 on establishing “jobs for the future” strengthens the role of collective bargaining between women and men with regard to occupational equality and equal remuneration.

### 4.3.11. Georgia

#### Article 1§2

Law on the Elimination of All Forms of Discrimination, which was enacted by the Georgian parliament on 2 May 2014 and entered into force on 7 May 2014. Its purpose is to eliminate discrimination on various grounds including health and disability (Article 1). The law prohibits all discrimination, both direct and indirect (Articles 2 §2 and 2 §3), and also introduces the notion of positive action in the context of promoting gender equality and in certain specific cases involving, *inter alia*, disability.

### 4.3.12. Hungary

#### Article 10§1

With the Act CLV of 2011 on Vocational Contribution and Support to Training Development, the new vocational contribution system introduced in 2012 strengthens the dual approach to practical education in vocational training provided in schools.

#### Article 20

The report indicates that Section 12 (1) of the Act I of 2012 on the Labour Code (the new Labour Code) states that the requirement of equal treatment must be complied with in relation to employment. The Act defines the concept of wages (as any remuneration in cash or in kind provided to employees directly or indirectly based on their employment), as well as the factors that need to be taken into account when calculating the equal value of work.

### 4.3.13. Italy

#### Article 1§2

- ▶ The legislative decree 150/2011 widened the range of possible forms of discrimination covered by Article 44 of the Consolidated Immigration Act, by adding to the list discrimination on grounds of national origin, language or skin colour. Discrimination cases involving any of the prohibited grounds

are now dealt with under urgent/fast-track procedure rather than under the ordinary procedure.

- ▶ Amended legislation brought national law into line with the requirements of ILO Maritime Labour Convention No. 186.

### **Article 10§1**

The Law on the Labour Market Reform of 2012 introduced different types of education, such as formal, non-formal and informal with a view to consolidating the system of life-long learning.

### **Article 15**

- ▶ In 2012, a clause was added to Law No. 68/99 stating that employers must make reasonable accommodation for employees with disabilities wishing to work from home or telework (Decree-Law No. 179 of 18 October 2012).
- ▶ Under Legislative Decree No. 76/2013, public and private employers are required to make reasonable accommodation to ensure compliance with the principle of equal treatment of persons with disabilities at work.

## **4.3.14. Lithuania**

### **Article 25**

The Law on the Guarantee Fund (Recast) which came into effect on 1 January 2013, establishes a better regulation in order to simplify the calculation of allowances from the Guarantee Fund and to speed up the allowances allocation process.

## **4.3.15. Malta**

### **Article 15**

The Equal Opportunities (Persons with a Disability) Act, amended in 2012, prohibits discrimination in all areas including employment. Under this law employers must not discriminate against persons with disabilities in procedures relating to job applications, recruitment, promotion, dismissal, remuneration, vocational training or other areas linked to employment conditions. It is not permitted for employers to use tests or procedures designed to exclude persons with disabilities unless they can prove that these tests are crucial to the work concerned.

## **4.3.16. Republic of Moldova**

### **Article 15**

Legislation which came into force on 1 January 2013, prohibits all forms of discrimination, including discrimination based on disability, and applies to all individuals and legal persons in the public and private domains.

### 4.3.17. Montenegro

#### Article 15

- ▶ The Law on Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette of Montenegro, no. 49/08, 73/10 and 39/11), as amended in 2011, sets out the arrangements and procedures for applying the right to vocational rehabilitation of persons with disabilities. The amendments made to the Law change the system of employment quotas for persons with disabilities.
- ▶ Exercise of the right to medical and technical aids is governed by the “Regulation on exercising the right to medical and technical aids” (Official Gazette of Montenegro, no. 24/2013 and 26/2014).
- ▶ The Law on Spatial Planning and Construction as amended in 2014 (Official Gazette of Montenegro, no. 51/08, 40/10, 34/11, 35/13, 33/14) provides that public buildings must be accessible.

### 4.3.18. Portugal

#### Article 153

Within the framework of the Programme to Relaunch the Public Employment Service approved by the Council of Ministers Resolution n°. 20/2012 of 9 March 2012, public employment services have been restructured. Following this restructuration, the Institute of Employment and Professional Training (IEFP) is supported by a network of 29 employment and vocational education centres, 23 job centres, and one vocational training and professional rehabilitation centre, for a total of 53 local units.

### 4.3.19. Romania

#### Article 20

In April 2014 the Department for Equality of Opportunities between Women and Men (DEOWM) was established to monitor the enforcement of the Gender Equality Law.

### 4.3.20. Russian Federation

#### Article 153

- ▶ Following the amendment in 2012 of Federal Act No.1032-1 “On employment in the Russian Federation” of 19 April 1991, the subjects of the Federation are entitled to conduct active policies to promote employment.
- ▶ Act No. 116-FZ “ On Amendments to Certain Legislative Acts” of 5 May 2014, set the rules for accreditation and operation of private employment agencies in the Russian Federation.

#### Article 1053

The Order of the Ministry of Labour of Russia № 262 of April 17, 2014 approved the Federal state standards of public services, including vocational training and education for the unemployed.

## Article 15

- ▶ The Law on the Protection of Disabled Persons, as amended by Federal Law no. 168-FZ of 2 July 2013, provides that employers must supply equipment for special jobs for persons with disabilities, regard being had to their disability.
- ▶ With effect from 2013, Law No. 183-FZ of 2 July 2013 entitles public authorities to set quotas for the employment of persons with disabilities within organisations which have more than 35 members of staff.
- ▶ With regard to the activities of the National Employment Service, standards for public services and public functions in the field of promotion of employment have been drawn up (Federal Law no. 361-FZ of 30 November 2011) in order to guarantee employment and encourage access to the inclusive employment market for persons with disabilities.

## Article 20

In 2011 the Council on Gender was created at the Russian Ministry of Labour whose main tasks are to prepare proposals on improvement of legislation in order to ensure gender equality.

### 4.3.21. Serbia

## Article 15

Law on the Professional Rehabilitation and Employment of Persons with Disabilities (Official Gazette Nos. 36/2009 and 32/2013), which came into force on 23 May 2009 and was amended on 16 April 2013. It prohibits all discrimination against persons with disabilities and aims to create the conditions for equal access for persons with disabilities to the open labour market and to promote professional rehabilitation.

### 4.3.22. Slovak Republic

## Article 10§1

Act 184/2009 Coll. on Vocational Education and Training is one of the pillars of the reform of the educational system. The Act was amended in September 2012 and the amendment strengthened the coordination of vocational training and education to be better suited to the needs of the labour market. The amendment also introduced the obligation to publish information about the employability of graduates in each individual self-governing region, according to the fields of study and type of the secondary education facility.

## Article 20

The Anti-Discrimination Act was amended in 2012 to cover the definition of indirect discrimination and it now enables public administration bodies and legal entities, including employers, to adopt temporary compensatory measures to eliminate disadvantages due to gender.

### 4.3.23. “The former Yugoslav Republic of Macedonia”

#### Article 15

The Committee notes that the Law on Prevention of and Protection against Discrimination (the Anti-Discrimination Law), which was adopted in 2010, entered into force on 1 January 2011. It prohibits any direct or indirect discrimination on grounds including disability in areas such as education, science and sport.

#### Article 20

Law on the Equal Opportunities of Men and Women No. 6/2012 was adopted on 13 January 2012, which additionally promoted the principle equal opportunities and equal treatment of men and women.

### 4.3.24. Ukraine

#### Article 15

- ▶ Law No. 5207-VI on Principles of Prevention and Combating Discrimination in Ukraine which was enacted on 6 September 2012 forbids direct and indirect discrimination, based, among other things, on disability and applies in particular to the field of education, public services and relations between employers and employees.
- ▶ By its Decision No. 872 of 15 August 2011, the Cabinet of Ministers approved the rules governing the organisation of inclusive education in secondary schools.
- ▶ Law No. 1324 of 5 June 2014 on amendments to some of the laws on inclusive education was enacted to ensure continuity and consistency in the integration of children with special needs into general education.

## 4.4. Follow-up of the conclusions by the Governmental Committee

In 2016, the Governmental Committee discussed follow-up measures taken by the Governments with respect to Conclusions of non-conformity issued by the European Committee of Social Rights on Articles of the European Social Charter dealing with “Employment, training and equal opportunities”.

In its discussions, the Governmental Committee applied the measures adopted by the Committee of Ministers at its 1196<sup>th</sup> meeting on 2 April 2014 and focused on the 80 Conclusions of non-conformity as selected by the European Committee of Social Rights.

In this context, the Governmental Committee voted for two warnings: one with respect to Article 7§10 (special protection against physical and moral dangers) on Ukraine and one with respect to Article 17 (right of mothers and children to social and economic protection) on the United Kingdom.

During its examination, the Governmental Committee took note of important positive developments in several States Parties.

The Governmental Committee asked Governments to continue their efforts with a view to ensuring compliance with the European Social Charter and urged them to take into consideration any previous Recommendations adopted by the Committee of Ministers.

The Governmental Committee held two meetings (9-13 May 2016 and 26-30 September 2016) with Mme Kristina Vysniauskaite-Radinskiene (Lithuania) in the Chair.

The Governmental Committee took note of the initiatives undertaken in 2016 with respect to the “Turin Process” for the European Social Charter. This Process started in 2014 following an initiative of the Secretary General by the organisation of a High-level Conference on the European Social Charter, held in Turin on 17-18 October 2014.

The Governmental Committee took note of the current priorities with respect to the “Turin Process”, namely:

- ▶ The organisation of high-level meetings in the member States with a view to promoting a greater acceptance of the Charter’s treaty system;
- ▶ The opinion of the Secretary General on the European Union Pillar of Social Rights.



# 5 – The procedure relating to non-accepted provisions

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## 5.1. Introduction

Article A of the European Social Charter (Article 20 of the 1961 Charter) authorises states to ratify the treaty without accepting all of its substantive provisions. The same article also allows states, at any time subsequent to ratification of the treaty, to notify the Secretary General of their acceptance of additional articles or paragraphs (Table on Acceptance of provisions of the Revised European Social Charter in Appendix 9). This gradual acceptance principle is described in Article 22 of the 1961 Charter:

*The Contracting 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 implementation, in both law and practice, of the provisions concerned. 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). Following this decision, it was agreed that the European Committee of Social Rights would examine – either in meetings or as part of a written procedure – the legal and practical situation in the states concerned from the standpoint of the situation's compatibility with the non-accepted provisions. The first examination would take place five years after ratification of the revised Social Charter and thereafter every five years, so that the situation could be assessed on a continuing basis and states would be encouraged to accept new provisions. In practice, experience has shown that states have tended to lose sight of the fact that the selective acceptance of Charter provisions must only be a temporary phenomenon.

In 2016, the non-accepted provisions procedure concerned six states party, of which two (the Netherlands and Norway) were invited to present written reports and three (Austria, Lithuania and Ukraine) were invited to hold meetings. The Committee decided to offer the Republic of Moldova a choice, inviting it to hold a meeting but, if this proved impossible, to apply the written procedure.

The Committee has adopted reports relating to the non-accepted provisions procedure for the following countries:

- ▶ 2014: Armenia
- ▶ 2015: Bulgaria, Ireland
- ▶ 2016: Austria, Lithuania, the Netherlands

The Committee will adopt the reports on Hungary (2014) and Ukraine (2016) in 2017.

On 18 March 2016, Greece ratified the revised Charter, accepting 96 of its 98 paragraphs. The non-accepted provisions procedure will apply to Greece in 2021 (the number of accepted provisions per year since 1962 can be found in Appendix 10).

## 5.2. Overview of the States Parties concerned in 2016

### Armenia

Armenia ratified the European Social Charter on 21 January 2004, accepting 67 of its 98 paragraphs. It has not yet accepted the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted: 2.7, 3.2, 3.3, 3.4, 4.1, 9, 10.1, 10.2, 10.3, 10.4, 10.5, 11.1, 11.2, 11.3, 12.2, 12.4, 13.3, 13.4, 14.1, 15.1, 16, 21, 23, 25, 26.1, 26.2, 29, 30 and 31.1, 31.2, 31.3 (31 provisions).

Following an initial meeting on the non-accepted provisions in Yerevan in 2009, the Committee invited the Armenian authorities to hold a further meeting in 2014 on progress made towards accepting new provisions and the reasons for any delays in doing so.

The Armenian authorities asked for the meeting on non-accepted provisions to be postponed until 2015 because of planned reforms in 2014, particularly amendments to the Labour Code to bring it into line with the treaties by which Armenia was bound. This meeting was held in Yerevan on 30 September 2015.

In its report, the Committee encourages the Armenian authorities to consider acceptance of the Charter provisions identified as not posing any problems for acceptance, namely Articles 9, 10.1, 10.3 and 10.4, 13.3, 14.1 and 15.1.

The next examination of provisions that have not been accepted by Armenia will take place in 2019.

The Committee's report can be consulted at <http://www.coe.int/en/web/turin-european-social-charter/armenia-and-the-european-social-charter>

### Austria

Austria ratified the European Social Charter on 20 May 2011, accepting 76 of its 98 paragraphs. It has not yet accepted the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted: 2.1, 4.4, 6.4, 7.6, 8.2, 15.2, 18.3, 19.4, 19.8, 19.10, 19.11, 21, 22, 23, 24, 26.2, 27.3, 29, 30, 31.1, 31.2 and 31.3 (22 provisions).

In January 2016, with a view to implementing the non-accepted provisions procedure for the first time, the Committee invited the Austrian Government to hold a meeting

on progress made towards accepting new provisions and the reasons for any delays in doing so. The meeting was held in Vienna on 28 April 2016.

In the report based on the information it received at this meeting, the Committee encourages the Austrian authorities to consider acceptance of the Charter provisions identified as not posing any problems for acceptance, namely Articles 6.4, 7.6, 19.11, 26.2 and 29. Acceptance of provisions such as Articles 19.4, 21, 22, 23, 27.3, 30, 31.1 and 31.2 could also be considered under certain circumstances.

The Austrian Government is not prepared to accept the collective complaints procedure for the moment but it will carefully examine the experience of other member states in the implementation of this procedure.

The next examination of provisions that have not been accepted by Austria will take place in 2021.

The Committee's report can be consulted at <http://www.coe.int/en/web/turin-european-social-charter/austria-and-the-european-social-charter>

## **Bulgaria**

Bulgaria ratified the European Social Charter on 7 June 2000, accepting 62 of its 98 paragraphs. It has accepted the Additional Protocol providing for a system of collective complaints but it has not yet made a declaration enabling national NGOs to submit such complaints.

The following provisions have not been accepted: 2.1, 4.1, 9, 10.1, 10.2, 10.3, 10.4, 10.5, 12.2, 12.4, 13.4, 15.1, 15.2, 15.3, 17.1, 18.1, 18.2, 18.3, 19.1, 19.2, 19.3, 19.4, 19.5, 19.6, 19.7, 19.8, 19.9, 19.10, 19.11, 19.12, 23, 27.1, 30, 31.1, 31.2 and 31.3 (36 provisions)

Following an initial meeting on the non-accepted provisions in Sofia in October 2005 and a written procedure implemented in 2010, the Committee invited the Bulgarian Government to hold a second meeting under the non-accepted provisions procedure to consider progress made towards accepting new provisions and the reasons for any delays in doing so. The meeting was held in Sofia on 18 June 2015.

In its report, the Committee encourages the Bulgarian authorities to consider acceptance of the Charter provisions identified as not posing any problems for acceptance, namely Articles 2.1, 15.1, 15.2, 15.3, 17.1, 19.3, 19.4a and b, 19.5, 19.7, 19.9, 19.10, 27.1 and 30.

The next examination of the provisions that Bulgaria has not accepted will be in 2020.

The Committee's report can be consulted at <http://www.coe.int/en/web/turin-european-social-charter/bulgaria-and-the-european-social-charter>

## **Hungary**

Hungary ratified the European Social Charter on 20 April 2009, accepting 60 of its 98 paragraphs. It has not yet accepted the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted: 4.1, 4.2, 4.3, 4.4, 4.5, 7.2, 7.3, 7.4, 7.5, 7.6, 7.7, 7.8, 7.9, 7.10, 12.2, 12.3, 12.4, 18.1, 18.2, 18.3, 18.4, 19.1, 19.2, 19.3, 19.4,

19.5, 19.6, 19.7, 19.8, 19.9, 19.10, 19.11, 19.12, 23, 24, 25, 26.1, 26.2, 27.1, 27.2, 27.3, 28, 29, 30 and 31.1, 31.2, and 31.3 (38 provisions).

With a view to implementing the non-accepted provisions procedure for the first time, the Committee wrote to the Hungarian Government on 24 September 2013 inviting it to supply, by the end of March 2014, written information on progress made towards accepting new provisions and the reasons for any delays in doing so. In response to a request from the Hungarian Government, the Committee agreed to extend the deadline for submitting this information to 30 September 2014. The information was supplied by the Hungarian authorities on 9 February 2015.

The Committee's report is currently being drawn up.

## Ireland

Ireland ratified the European Social Charter on 4 November 2000, accepting 92 of its 98 paragraphs. It accepted the Additional Protocol providing for a system of collective complaints on 4 November 2000 but has not yet made a declaration enabling national NGOs to submit such complaints.

The following provisions have not been accepted: 8.3, 21, 27.1, 31.1, 31.2 and 31.3 (6 provisions).

Following an initial meeting on non-accepted provisions in Dublin in October 2005, the Committee invited the Irish Government to supply written information in 2010 on progress made towards accepting new provisions and the reasons for any delays in doing so. No information has been provided by the Irish authorities.

With a view to implementing the procedure for a third time, the Committee again invited the Irish Government to submit written information by the end of May 2015. As, however, the requested contribution was not sent by the Irish authorities for the second time running, the Committee pointed out that the procedure provided for by Article 22 of the 1961 Charter, combined with the decision by the Committee of Ministers referred to above, requires the states concerned to report on non-accepted provisions every five years. The Committee regrets that Ireland has not met this requirement. However, it remains open to dialogue with the Irish authorities and encourages Ireland to accept the additional provisions, particularly those in respect of which the Committee concluded already in 2005 that there were no obstacles to acceptance (Articles 8.3 and 27.1c). The Committee also invites Ireland to make the declaration provided for by Article 2 of the Additional Protocol of 1995 to enable representative national non-governmental organisations to submit collective complaints.

The next examination of the provisions that Ireland has not accepted will be in 2020.

The Committee's report can be consulted at <http://www.coe.int/en/web/turin-european-social-charter/ireland-and-the-european-social-charter>

## Lithuania

Lithuania ratified the European Social Charter on 29 June 2001, accepting 86 of its 98 paragraphs. It has not yet accepted the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted: 12.2, 13.4, 18.2, 18.3, 19.2, 19.4, 19.6, 19.8, 19.12, 23, 30 and 31.3 (12 provisions).

In January 2016, following an initial meeting in 2006 and a second in 2011, the Committee invited the Lithuanian Government to hold a meeting on the progress made towards accepting further provisions and any reasons for delays in doing so. The meeting was held in Vilnius on 6 April 2016.

In the report based on the information provided by the government during this meeting and in written communications, the Committee concluded that there were no obstacles in law or in practice to the acceptance by Lithuania of the following provisions: Articles 12.2, 19.2, 19.4, 19.8, 19.12, 23 and 30. The Committee invited the Lithuanian Government to consider accepting these provisions.

The Committee's report can be consulted at <http://www.coe.int/en/web/turin-european-social-charter/lithuania-and-the-european-social-charter>

## Republic of Moldova

The Republic of Moldova ratified the European Social Charter on 8 November 2001, accepting 63 of its 98 paragraphs. It has not yet accepted the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted: 3.4, 4.1, 4.2, 7.5, 7.6, 10.1, 10.2, 10.3, 10.4, 10.5, 13.4, 14.1, 14.2, 15.3, 18.1, 18.2, 19.1, 19.2, 19.3, 19.4, 19.5, 19.6, 19.9, 19.10, 19.11, 19.12, 22, 23, 25, 27.1, 27.3, 30, 31.1, 31.2 and 31.3 (35 provisions).

In January 2016, following an initial meeting in 2006 and a second in 2011, the Committee invited the Government of the Republic of Moldova to hold a meeting or submit a written report on the progress made towards accepting further provisions and any reasons for delays in doing so. The Moldovan authorities chose to hold a meeting. However, because of the political situation in the country, they requested that the meeting be held in 2017.

## The Netherlands

The Netherlands ratified the European Social Charter on 3 May 2006, accepting 97 of its 98 paragraphs (applying only to the Kingdom in Europe). The same day, it accepted the Additional Protocol providing for a system of collective complaints but it has not yet made a declaration enabling national NGOs to submit such complaints.

The only provision it has not accepted is Article 19.12 of the Charter.

As in 2011, the Committee decided to invite the Dutch Government to submit written information on the progress made towards accepting Article 19.12 and any reasons for the delay in doing so.

In a letter of 23 May 2016, the Dutch authorities confirmed that the Netherlands still did not intend to accept Article 19.12 of the Charter, for reasons which had not changed since 2011.

In its report, the Committee encourages the Dutch authorities to accept Article 19.12 of the Charter as the Netherlands are already bound by the European Convention on the Legal Status of Migrant Workers (ETS No. 93), Article 15 of which relates to the same matters.

The next examination of the provision that the Netherlands has not accepted will be in 2021.

The Committee's report can be consulted at <http://www.coe.int/en/web/turin-european-social-charter/the-netherlands-and-the-european-social-charter>

## **Norway**

Norway ratified the European Social Charter on 7 May 2001, accepting 80 of its 98 paragraphs. It accepted the Additional Protocol providing for a system of collective complaints on 20 March 1997 but it has not yet made a declaration enabling national NGOs to submit such complaints.

The following provisions have not been accepted: 2.7, 3.1, 3.4, 7.4, 7.9, 8.2, 8.4, 8.5, 18.1, 18.2, 18.3, 18.4, 19.8, 26.1, 26.2, 27.1(c), 27.3 and 29 (18 provisions).

Following an initial meeting in 2006 and a written procedure in 2011, the Committee invited the Norwegian Government to provide written information in 2016 on the progress made towards accepting further provisions and any reasons for delays in doing so. In a letter of 20 December 2016, the Norwegian authorities informed the Committee that as a result, in particular, of the need for co-ordination between several ministries, the report would be available in January 2017.

## **Ukraine**

Ukraine ratified the European Social Charter on 21 December 2006, accepting 74 of its 98 paragraphs. It has not yet accepted the Additional Protocol providing for a system of collective complaints.

The following provisions have not been accepted: 2.3, 4.1, 12.1, 12.2, 12.3, 12.4, 13.1, 13.2, 13.3, 13.4, 19.1, 19.2, 19.3, 19.4, 19.5, 19.6, 19.7, 19.8, 19.9, 19.10, 19.11, 19.12, 25, and 31.3 (24 provisions).

In January 2016, following an initial meeting in 2011, the Committee invited the Ukrainian Government to hold a second meeting on the progress made towards accepting further provisions and any reasons for delays in doing so. The meeting was held in Kyiv on 23 March 2016.

The Committee's report is currently being drawn up.

# 6 – The “Turin Process” for the European Social Charter

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## 6.1. Major events

Two important events were held in the context of the “Turin Process” in 2016: the Interparliamentary Conference on the European Social Charter and the Forum on social rights in Europe (“TURIN 2”)<sup>9</sup>, held in Turin on 17 and 18 March 2016.

### Interparliamentary Conference on the European Social Charter

As a follow-up to the meeting of the representatives of the governments of the Council of Europe member states in connection with the High-Level Conference on the European Social Charter (“TURIN 1”)<sup>10</sup>, held in Turin on 17 and 18 October 2014, the objective of the Interparliamentary Conference (“TURIN 2”) was to bring together the representatives of the parliaments of the 47 Council of Europe member states with the aim of promoting:

- ▶ the political discussion concerning the acceptance of the Social Charter treaty system;
- ▶ greater consideration of its provisions in domestic legislative processes;
- ▶ improved implementation of its provisions at national level (taking account of, amongst other things, the conclusions and decisions of the European Committee of Social Rights).

At the Conference, held on 17 March 2016 in the Turin City Hall, some one hundred national parliamentarians from twenty-five Council of Europe member states had the opportunity to discuss the issue of implementation of the Social Charter with reference to the major global challenges which the authorities of various countries are currently addressing in socio-economic terms, at both national and European level. In this context, the members of parliament present – which included the Speaker of the State Duma of the Russian Federation, the Speaker of the House of Representatives of Malta, the Deputy Speaker of the Turkish General Assembly and the Deputy Speaker of the Hungarian Parliament, as well as various chairs of parliamentary Committees competent in the area of social rights – discussed how the implementation of these rights, which are guaranteed under the European Social Charter, could help bring about positive solutions to the challenges referred to above. The discussion focused in particular on the way in which the enjoyment of fully implemented social rights could help to: resolve the economic crisis; promote societies in which radicalisation ceases to be an option for young persons; ensure migrants’ integration into and contribution to the creation of increasingly stronger

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9. Further information concerning the Turin 2 events is available on the Council of Europe website: <http://www.coe.int/fr/web/turin-european-social-charter/conference-turin-2016>

10. More information on the Turin 1 Conference can be found on: <http://www.coe.int/fr/web/turin-european-social-charter/conference-turin>

societies; and increase citizens' trust in democratic institutions and the process of European construction. The question of the exploitation for electoral purposes of the anxieties of members of the general public in relation to some of the points mentioned above by political parties that are ready to foment xenophobic and nationalist sentiments leading to refusal or introspection was also discussed during the Interparliamentary Conference. The exchange of views on this issue made it possible to contextualise and provide input to the deliberations on the initiatives and processes which national parliaments could put in place to promote acceptance of the European Social Charter treaty system and greater consideration of its provisions within legislative processes. The debates at the Interparliamentary Conference were moderated by the European Parliament Rapporteur on the situation of Fundamental Rights in the European Union (2013-2014) and by the Chair of the Parliamentary Assembly's Sub-Committee on the European Social Charter. The conclusions were presented by the Assembly's Rapporteur on the "Turin Process".

### Forum on social rights in Europe

The Forum on Social Rights in Europe held on 18 March 2016 in the Great Hall of the University of Turin was a public event and, for this reason, was also streamed live over the internet (the video recording is available on the website of the Social Charter). In addition to the various speakers and the Italian authorities, the Forum was attended by participants from the Interparliamentary Conference, the chairs of the relevant Committee of Ministers' Rapporteur Groups, interested members of the Parliamentary Assembly and other authorities from the Council of Europe, including the European Committee of Social Rights, the Bureau of the Steering Committee for Human Rights and the Bureau of the Governmental Committee of the European Social Charter and European Code of Social Security. Following the welcome speeches by the organisers, the Forum provided an opportunity to discuss in public the implementation of social rights in relation to the challenges described above. The debate which followed, with input from politicians, experts and officials, built on the introductory reports presented by two internationally renowned academics who, speaking from their own viewpoints – economic and legal respectively – shared with the members of the public and the authorities present not only their concerns but also their ideas and proposals concerning the obstacles that need to be overcome in order to ensure that the implementation of social rights can contribute to the construction of a more prosperous and unified Europe based on solidarity.

This discussion addressed, on the one hand, economic issues involving the complex relationship between growth, the cost of labour, investment, productivity, well-being, social rights, human capital, European governance and democracy, and on the other, legal questions concerning the problem of the erosion and fragmentation of the status of workers, the growth in inequality and discrimination at work, difficulties in accessing fundamental social rights and, more specifically, discrepancies between European Union law and the Social Charter. Representatives of national parliaments and the President of the European Committee of Social Rights also took the floor during the debate. The latter presented specific proposals for strengthening the Social Charter system and implementing its provisions more effectively (Giuseppe Palmisano's speech at the Forum on social rights in Europe in Appendix 11). The



European Commission representative contributed to these exchanges by presenting the initiative on the creation of a *European pillar of social rights* and confirming the Commission's aim to step up its co-operation with the Council of Europe in order to improve the synergy between EU law and the Social Charter. The Forum's conclusions, which were presented by the Chair of the Employment Committee of the Italian Chamber of Deputies, followed on from a series of considerations concerning the consequences of austerity policies by the Greek Minister for Employment, Social Security and Social Solidarity, who attended the Forum in order to deposit the instrument of ratification of the revised European Social Charter by Greece with the Deputy Secretary General of the Council of Europe.

## **6.2. The Council of Europe's commitment to social rights**

In the course of 2016, various institutions and bodies of the Council of Europe continued their activities relating to the treaty system of the European Social Charter, taking account of the "Turin Process".

Pursuant to the mandate given to it by the Committee of Ministers, in 2016 the Steering Committee for Human Rights (CDDH) made an analysis of the legal framework of the Council of Europe for the protection of social rights in Europe. In the light of this work, which was carried out with the support of the Department of the European Social Charter, the CDDH will identify good practices and, where appropriate, make proposals to the Committee of Ministers with a view to improving the implementation of social rights and, in particular facilitating the relationship between the various European instruments for the protection of social rights. This legal analysis should be transmitted to the relevant working group of the CDDH in early 2017 with a view to its adoption and the continuation of the work assigned to it by the Committee of Ministers.

In January 2016, The Parliamentary Assembly Committee on Social Affairs, Health and Sustainable Development appointed Ms Sílvia Eloïsa Bonet (Andorra, SOC), First Vice-Chair of the Committee and member of the Sub-Committee on the European Social Charter, Rapporteur on the "Turin Process". Given the political dimension of the process, the Assembly's Committee on Political Affairs and Democracy was invited to issue an opinion on the draft report that would be prepared by Ms Bonet. On 8 March 2016 Mr Jordi Xuclà (Spain, ALDE) was appointed Rapporteur for this Committee. Once the report of Ms Bonet has been approved by the Committee on Social Affairs, Health and Sustainable Development, it should be discussed by the Assembly at the Session in June 2017. On this basis, the Assembly will be able to adopt a recommendation to the Committee of Ministers and/or a resolution for the attention of the member states of the Council of Europe. As already mentioned, as Rapporteur on the "Turin Process", Ms Bonet presented the conclusions of the Interparliamentary Conference on the European Social Charter held in Turin on 17 March.

In his "Report on the State of democracy, human rights and the rule of law – a security imperative for Europe"<sup>11</sup>, published in May 2016, the Secretary General the Council of Europe, declared that the "Turin Process"*"turns the declarations of principle at national and European levels into targeted political actions"* and that among the priorities of this process the following are of particular importance: a) the ratification of the revised European Social Charter by all member states; b) the enhancement of the collective complaints procedure, which directly involves social partners and civil society in monitoring activities regarding the application of the Charter; c) the reinforcement of the Charter treaty system within the Council of Europe and in its relationship with European Union law. The aim is to increase the co-ordination of different European systems, whether they are established within the Council of Europe or within the European Union, and to promote more cohesive, integrated and open democratic societies. In the conclusions to his report, the Secretary General also recommended that the States concerned comply with the Conclusions of the European Committee of Social Rights, as stipulated for in the "Turin Process" Action Plan, set out in the "TURIN 1" General Report.

At the 31<sup>st</sup> Session of the Congress of Local and Regional Authorities (Strasbourg, 19 to 21 October 2016), the Chamber of Regions of the Congress held a debate on implementation of the European Social Charter at regional level. In this context, Mr Luis Jimena Quesada, former Chair of the European Committee of Social Rights, explained how the Charter worked and the benefits it offered. While the Charter's application was first and foremost a task for the States, the local and regional levels also had a role to play in spontaneously implementing it within the scope of their own powers. Good coordination between local, regional and national authorities was important for optimum application of the Charter, in the interest of all citizens and also of the country itself. Luis Jimena Quesada pointed out that for that to happen, it was important for this document to become better known within local and regional authorities and that, in this connection, the Congress could cooperate more closely with the European Committee of Social Rights. In conclusion, he called on local and regional authorities to encourage states that had not yet done this to sign or ratify the revised Charter and to accept the collective complaint procedure. In the light of the debate held by the Chamber of Regions, the Congress might decide to draft a political report on the European Social Charter and the "Turin Process".

In January 2016, the Council of Europe's Conference of INGOs adopted a "Call to action to support "Turin Process" for European Social Charter". In this document, the INGO members of the Conference were invited to advocate the ratification of the Revised European Social Charter by all states, the acceptance of the collective claims procedure by all States parties, and participate and encourage their national members to take part in the annual cycle of the monitoring of the implementation of the Charter. In this view, in the countries where they are represented, the INGO members are expected to organise activities providing information about and drawing attention to the importance of the Charter and its monitoring mechanism and on the improvement of national policies to eradicate poverty and social exclusion, in

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11. Secretary General's Report on the State of democracy, human rights and the rule of law – a security imperative for Europe: <http://www.coe.int/fr/web/turin-european-social-charter/developments-and-perspectives-regarding-the-charter-in-the-council-of-europe-member-states>

particular by stepping up the dialogue between NGOs and the public authorities through the collective complaints procedure. The INGO members could also work with their national members to identify the obstacles to ratification and to seize any opportunities that would permit them to do so. INGO members wishing to be registered on the list of INGOs allowed to lodge collective complaints should ask to register them.

This proposed action has been prepared by a select group of the INGOs Conference in consultation and with the support of the President of the Conference and the Chair of the Human Rights Committee. It is being carried out in liaison with the European Committee of Social Rights and the European Social Charter Department, in particular where promotion and training activities are concerned.

After the new Council of Europe website on the European Social Charter ([www.coe.int/socialcharter](http://www.coe.int/socialcharter)) had been put on line in December 2015, other initiatives relating to the Council of Europe's institutional communication concerning the Charter were launched in the context of the "Turin Process" in 2016; these initiatives concerned in particular the making of a film to promote the Charter, which would be presented in 2017.

### 6.3. Synergies with the European Union

In 2016, as a follow-up to his meeting with the First Vice-President of the European Commission, Mr Frans Timmermans, in Strasbourg in November 2015, the Secretary General of the Council of Europe appointed two officials from the Department of the European Social Charter<sup>12</sup> as *focal points* for a) co-operation between the Council of Europe and the European Commission aimed at strengthening the synergy between EU law and the Charter and b) the consultation process concerning the European Pillar of Social Rights initiative launched by the Commission in March 2016. The first meeting of the focal points of the Council of Europe Secretariat and the European Commission (DG-EMPL) took place in Brussels on 1 June 2016. A second meeting was held on 8 December 2016, in connection with the seminar organised in honour of members leaving the European Committee of Social Rights.

On 2 December 2016 the Secretary General of the Council of Europe finalised his opinion on the European Union initiative to establish a European Pillar of Social Rights<sup>13</sup> and, on 16 December 2016, he transmitted it to Mr Jean-Claude Juncker, President of the European Commission. With a view to consolidating the synergy between the European standard-setting systems of protection of fundamental social rights, the Secretary General asked, through this opinion, that the provisions of the (Revised) European Social Charter should be formally incorporated into the

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12. Mr Régis Brillat, Head of the Department of the European Social Charter, Executive Secretary of the European Committee of Social Rights, and Mr Riccardo Priore, Co-ordinator of the "Turin Process" for the European Social Charter.

13. Opinion of the Secretary General of the Council of Europe on the European Union initiative to establish a European Pillar of Social Rights: <http://www.coe.int/en/web/portal/-/secretary-general-s-opinion-on-the-european-pillar-of-social-rights>

European Pillar of Social Rights as a common benchmark for states in guaranteeing these rights, and that the collective complaints procedure should be acknowledged by the European Pillar of Social Rights for the contribution it has made to the effective realisation of the rights established in the Charter.

# 7 – Relations with Council of Europe institutions

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## 7.1. Secretary General of the Council of Europe

In the context of his “Report on the situation of democracy, human rights and the rule of law – a security imperative for Europe”, published in May 2016, the Secretary General declared that social rights must be one of the Council of Europe’s priorities and that the Organisation would do its utmost to ensure that the (revised) European Social Charter and the Protocol providing for a system of collective complaints were ratified by more states. In this connection, the Secretary General also said that he believed that *“Respect for human dignity is the foundation of human rights, and it is through the implementation of social rights that this dignity is protected. Respect for social rights contributes to peaceful and stable societies. The effective enjoyment of social rights such as housing, education and health, non-discrimination, employment, decent working conditions and legal, social and economic protection provides the basis for respect for human dignity”*. The report also states that *“The economic crisis in Europe and the austerity measures adopted in response to it have had a negative impact on the effective respect for human rights, and especially for social and economic rights. In this situation, the rights of vulnerable groups of people such as the elderly, children, migrants and their families may be undermined and need to be monitored with particular attention to avoiding dangerous repercussions on the social cohesion and democratic security of our societies”*.

As already mentioned, the report says that the “Turin Process” for the European Social Charter *“turns the declarations of principle at national and European levels into targeted political actions”* and that among the priorities of this process the following are of particular importance: a) the ratification of the revised European Social Charter by all member states; b) the enhancement of the collective complaints procedure, which directly involves social partners and civil society in monitoring activities regarding the application of the Charter; c) the reinforcement of the Charter treaty system within the Council of Europe and in its relationship with European Union law. The aim is to increase the co-ordination of different European systems, whether they are established within the Council of Europe or within the European Union, and to promote more cohesive, integrated and open democratic societies. In the conclusions to his report, the Secretary General also recommended that the States concerned comply with the Conclusions of the European Committee of Social Rights, as stipulated for in the “Turin Process” Action Plan, set out in the “TURIN 1” General Report.

## 7.2. Committee of Ministers

Prof. Giuseppe Palmisano, President of the European Committee of Social Rights, held an exchange of views with the Committee of Ministers on 30 March 2016. During its intervention (Appendix 12), he referred to the results of the monitoring activities

carried out by the Committee in 2015 in the framework of the reporting system and collective complaints procedure.

He highlighted the improvements made to the practices and working methods of the Committee, with a view to put into place a more constructive dialogue with States parties to the Charter and to respond faster and more effectively to the most urgent problems concerning the implementation of social rights in Europe.

President Palmisano stated that the “Turin process” for the Charter<sup>14</sup> has significantly progressed; in this context, he notably referred to the Interparliamentary Conference<sup>15</sup> and the Turin Forum on social rights in Europe, held in Turin on 17 and 18 March 2016.

### 7.3. Parliamentary Assembly

The cooperation between the European Committee of Social Rights and the Parliamentary Assembly consist, inter alia, in the decision to directly transmit every year to the Parliamentary Assembly “the decisions and conclusions of non-conformity whose effective follow-up and implementation required governments and national parliaments to take appropriate measures”.

In this context, a selection of conclusions of non-conformity, adopted by the Committee in 2016 can be found in Appendix 13. This selection refers to measures, either normative or legislative, or of a budgetary character or political control, which are necessary in order to make the application of the Charter at national level effective.

Furthermore, in January 2016, The Parliamentary Assembly Committee on Social Affairs, Health and Sustainable Development appointed Ms Sílvia Eloïsa Bonet (Andorra, SOC), First Vice-Chair of the Committee and member of the Sub-Committee on the European Social Charter, Rapporteur on the “Turin Process”. It is foreseen that Ms Bonet present a report at the Parliamentary Assembly in June 2017 in view of the adoption of a Recommendation to the Committee of Ministers and/or a resolution for the attention of the member states. For further information on this subject see Section 6.2 above or the Parliamentary Assembly website: <http://assembly.coe.int/nw/Home-fr.asp>).

### 7.4. Congress of local and regional authorities

At the 31<sup>st</sup> Session of the Congress of Local and Regional Authorities (Strasbourg, 19 to 21 October 2016), the Chamber of Regions of the Congress held a debate on implementation of the European Social Charter at regional level. In this context, Mr Luis Jimena Quesada, former Chair of the European Committee of Social Rights, explained how the Charter worked and the benefits it offered. On this basis, the Congress might decide to draft a political report on the European Social Charter and the “Turin Process”. For further information on this subject see Section 6.2 above or the Congress website: [http://www.coe.int/t/Congress/default\\_fr.asp](http://www.coe.int/t/Congress/default_fr.asp))

14. For more information on the “Turin Process” for the European Social Charter see: <http://www.coe.int/en/web/turin-european-social-charter/turin-process>

15. For more information on the Interparliamentary Conference on the European Social Charter see: <http://www.coe.int/en/web/turin-european-social-charter/conference-turin-2016>

## 7.5. Conference of INGOs

The Department of the European Social Charter contributed to the organisation of the Seminar of the Conference of INGOs on: “Youth facing poverty and social exclusion in Europe: the civil society and its answers”, held within the framework of the International Day for the Eradication of Poverty on 17 October 2016.

In 2016, the Conference of INGOs invited youth organisations from Greece and Poland for an exchange on youth poverty. The event highlighted the various alternative projects that were considered to improve the situation of youth, victims of the economic crisis: alternatives to the lack of proper vocational training and difficult access to internships, alternatives to precarious employment and alternatives to unattainable housing.

During the opening session, President of the Committee recalled how the European Social Charter can contribute to the improvement of the situation of youth in relation to housing, training, employment and working conditions. He highlighted in particular the situation of Greece and Poland in relation to the European Social Charter.

Moreover, members of the Committee attended the commemorative ceremony around the stone in memory of the victims of hunger, ignorance and violence on the forecourt of the Palais de l’Europe.





# 8 – Relations with other international organisations

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## 8.1. The European Union

### Opinion on the European Union initiative to establish a European Pillar of Social Rights

On 16 December 2016, the Secretary General of the Council of Europe Thorbjørn Jagland transmitted its Opinion on the European Union initiative to establish a European Pillar of Social Rights<sup>16</sup> to the President of the European Commission, Jean-Claude Juncker. With a view to consolidating the synergy between the European standard-setting systems of protection of fundamental social rights, the Secretary General asked, through this opinion, that the provisions of the (Revised) European Social Charter should be formally incorporated into the European Pillar of Social Rights as a common benchmark for states in guaranteeing these rights, and that the collective complaints procedure should be acknowledged by the European Pillar of Social Rights for the contribution it has made to the effective realisation of the rights established in the Charter.

### Exchange of views with Koen LENAERTS, President of the Court of Justice of the European Union

On 20 October 2016, the Committee held an exchange of views with the President of the Court of Justice of the European Union (CJEU), Koen LENAERTS, following on to previous meetings between the Committee and CJEU, most recently in 2014 (in Luxembourg) and in 2010 (in Strasbourg).

The exchange of views touched upon a wide range of topics of mutual interest, including the following:

- ▶ The role of EU institutions in the conclusion of agreements outside the framework of EU law (ESM, memoranda of understanding), notably in the light of the CJEU judgment in *Ledra Advertising* (C-8/15) and the Committee's decisions in complaints concerning austerity measures in Greece;
- ▶ Discrimination on grounds of age, in the light of the CJEU judgment in the *DI* case (C-441/14) and the Committee's case law on this topic;
- ▶ Racial and ethnic discrimination in the light of the CJEU judgment in *CHEZ Razpredelenie Bulgaria* (C-83/14) and the Committee's decision on admissibility in *Equal Rights Trust v. Bulgaria* (Complaint No. 121/2016);
- ▶ Developments in CJEU case law concerning posted workers following the Committee's decision in *LO/TCO v. Sweden* (Complaint No. 85/2012);

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16. Opinion of the Secretary General of the Council of Europe on the European Union initiative to establish a European Pillar of Social Rights: <http://www.coe.int/en/web/portal/-/secretary-general-s-opinion-on-the-european-pillar-of-social-rights>

- ▶ The rights of refugees in the light of the CJEU judgment in the H.T. case (C-373/13) and the Committee's recent statement of interpretation on the rights of refugees under the European Social Charter.

## **8.2. The United Nations and the International Labour Organisation**

The European Committee of Social Rights (ECSR) maintains close relations with the relevant bodies of the United Nations (UN), in particular the International Labour Organisation (ILO), the UN specialized agency, and the Office of the High Commissioner for Human Rights (OHCHR). Under Article 26 of the Charter ILO may participate in the Committee's deliberations in a consultative capacity.

In October 2016 the ECSR submitted a written contribution to the ILO on its use of quantitative indicators in the assessment of state compliance with Charter rights, in particular Article 12 on the right to social security. This contribution was made in the context of an ILO project on integrated management of the member States' compliance and reporting obligations under ratified international treaties on social rights.

The Committee and the Department also have close contacts with the United Nations High Commissioner for Refugees (UNHCR) through its Representation to the European institutions in Strasbourg.

At Secretariat level the Department of the European Social Charter contributes regularly to the coordination meetings between the Council of Europe and the United Nations High Commissioner for Human Rights (OHCHR).

## **8.3. The Academic Network on the European Social Charter**

In 2016, the Committee continued its cooperation with the Academic Network on the European Social Charter.

The Committee wishes to emphasise the importance of Professor Akandji-Kombe, General Coordinator of the Network until November 2016, in the restructuring of the Network into national sections in the various contributions made by the Network over the last years and, in particular, its contribution to the "Turin Process", as well as in the elaboration of the Brussels document. Last, but not least, its contribution to the education, the research and the awareness-raising of legal professionals about social rights has to be underlined.

The Network is actually composed of ten national sections which play an active role in the dissemination of knowledge of the European Social Charter among institutions and layers of their respective countries.

The new General Coordinator is Professor Giovanni Guiglia from the University of Verona, Italy. He is assisted by Professor Catarina Oliveira Carvalho from the Portuguese Catholic University of Porto, Deputy General Coordinator, as well as by the linguistic coordinators: Dr Claire Lougarre, University of Southampton, for English, Dr Despina Sinou, University Paris 13 - Sorbonne Paris Cité, for French and Professor Manuel Terol Becerra, University Pablo de Olavide of Sevilla, for Spanish.

Members of the Committee and of the Secretariat have participated in different meetings in 2016, in particular:

- ▶ Colloquium on “Economic crisis and social rights: a weaker standard of protection”, 13-14 October 2016, Paris, France
- ▶ Colloquium «*Tratados internacionales, estado social y comunidades autonomas*», 18 November 2016, Valencia, Spain

## 8.4. The Collaborative Platform on Social and Economic Rights

The Collaborative Platform on Social and Economic Rights (CoE-FRA-ENNHRI-EQUINET) is a follow-up activity to the conference held jointly by the Council of Europe, the European Network of National Human Rights Institutions (ENNHRI), the European Network of Equality Bodies (EQUINET) and the European Union Agency for Fundamental Rights (FRA) in Vienna in October 2013. On that occasion, it was agreed to combine efforts to establish four platforms for collaboration on asylum and migration, social and economic rights, Roma integration and hate crime. The first meeting of the Platform on Social and Economic Rights, which the Council of Europe played the key part in setting up and for which it is the key partner as regards management, took place in Strasbourg on 15 October 2015.

The second meeting was also held in Strasbourg, on 28 January 2016. It was aimed at increasing mutual awareness and knowledge between the partners, with a focus on the clarification and definition of the Platform’s objectives as well as ways of achieving them. It helped identify areas of activity, proposed a selection of priorities to be considered by the Platform and discussed how the activities could develop over time. It provided an opportunity to reaffirm the commitment of all partners to the priority activities for 2016.

Mr Lauri Leppik, General Rapporteur of the European Committee of Social Rights, until 31 December 2016, presented an overview of the monitoring mechanism of the European Social Charter, in particular the collective complaints procedure.

At the close of the discussion, four specific objectives were agreed for the Platform:

- ▶ Facilitate the exchange of information between partners and national bodies;
- ▶ Provide training for national bodies working on economic and social rights;
- ▶ Raise awareness of the ESC; and
- ▶ Develop tools for more effective work on economic and social rights.

It was agreed that a step-by-step approach would be required to achieve these goals. At the close of the meeting, the Serbian Equality Commission offered to host the Platform’s next meeting in Belgrade and invited European and national stakeholders to take part.

The Platform’s third meeting was therefore held in Belgrade on 10 October 2016. It was aimed at boosting mutual awareness and knowledge between the partners, in particular by providing information on new practices for monitoring respect for economic and social rights at national, regional and international level. In particular, the participants

explored the relationship between the European Social Rights Pillar launched by the European Commission and the European Social Charter. They also examined proposed relevant indicators for monitoring respect for economic and social rights.

Mr Lauri Leppik, General Rapporteur of the European Committee of Social Rights until 31 December 2016, presented indicators concerning European Social Charter monitoring procedures.

In addition, the Platform held an exchange of views on the steps agreed at the previous meeting, the necessary follow-up, including identification of needs for capacity-building for the Platform partners and the agreement on priorities, the implementation strategy and the corresponding timetable for 2017.

At the close of the meeting, the Office of the Latvian Ombudsperson offered to host a meeting of the Platform in Riga in 2017 to initiate discussion on implementing specific provisions of the Charter. Two key themes could be discussed there: the right to health care and the right to protection against poverty.

# Appendices

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## Appendix 1.

### European Committee of Social Rights List of members as at 27 January 2017

(in order of precedence<sup>17</sup>)

	Terme du mandat
M. Giuseppe PALMISANO, President (Italian)	31/12/2022
Ms Monika SCHLACHTER, Vice-president (German)	31/12/2018
Ms Karin LUKAS, Vice-president (Austrian)	31/12/2022
Ms Eliane CHEMLA, General Rapporteur (French)	31/12/2018
M. Petros STANGOS (Greek)	31/12/2020
Ms Birgitta NYSTRÖM (Swedish)	31/12/2018
M. József HAJDÚ (Hungarian)	31/12/2018
M. Marcin WUJCZYK (Polish)	31/12/2018
Ms Krassimira SREDKOVA (Bulgarian)	31/12/2020
M. Raul CANOSA USERA (Spanish)	31/12/2020
Ms Marit FROGNER (Norwegian)	31/12/2020
M. François VANDAMME (Belgian)	31/12/2020
Ms Kristine DUPATE (Latvian)	31/12/2022
Ms Barbara KRESAL (Slovenian)	31/12/2022
Ms Aoife NOLAN (Irish)	31/12/2022

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17. Conformément à l'article 7 du règlement du Comité.

## Appendix 2.

### Signatures and ratifications of the 1961 Charter and its Protocols and of the European Social Charter (revised) as at 1 January 2017

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	26/2/03	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	(3)	(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	17/11/99	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	17/7/98	17/7/98	3/5/96	21/6/02
France	9/3/73	18/10/61	22/6/89	(3)	21/10/91	21/10/91	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

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	Signature	Signature	Signature	Signature	Signature	Signature	Signature	Signature	Signature
Germany	18/10/61	27/1/65	5/5/88	—	—	—	(1)	—	29/6/07	—
Greece	18/10/61	6/6/84	5/5/88	18/6/98	12/9/96	18/6/98	18/6/98	18/6/98	3/5/96	—
Hungry	13/12/91	8/7/99	7/10/04	1/6/05	4/2/04	7/10/04	—	—	7/10/04	20/4/09
Island	15/1/76	15/1/76	5/5/88	—	21/2/02	(1)	—	—	4/11/98	—
Ireland	18/10/61	7/10/64	(3)	(3)	14/5/97	4/11/00	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	27/1/95	9/11/95	3/11/97	3/11/97	3/5/96	5/7/99
Latvia	29/5/97	31/1/02	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)	(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)	—	8/11/01	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
Pays-Bas	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
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	—
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	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	14/9/00	16/10/09
Saint-Marin	(1)	—	(1)	—	(1)	—	(1)	—	18/10/01	—
Serbia	(2)	(2)	(3)	(3)	(2)	(2)	(2)	—	22/3/05*	14/9/09

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
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)	—	23/10/00	—
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
Suisse	6/5/76	—	—	—	—	—	—	—	—	—
"The former Yugoslav Republic of Macedonia"	5/5/98	31/3/05	5/5/98	—	5/5/98	31/3/05	(2)	—	27/5/09	6/1/12
Turkey	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.



## Appendix 3.

### Selection of different meetings organised in 2016

The European Committee of Social Rights and the Secretariat of the European Social Charter organised and participated in numerous meetings in 2016. A selection of those events is presented below.

#### Events organised by the Department of the European Social Charter

- ▶ Strasbourg (France), Agora, 24 February 2016
  - Internal training on the European Social Charter
- ▶ Turin (Italy), 17 March 2016
  - Interparliamentary Conference on the European Social Charter
- ▶ Turin (Italy), 18 March 2016
  - Forum on social Rights in Europe
- ▶ Strasbourg (France), 4 April 2016
  - Meeting with representatives of the European Youth Forum
- ▶ Strasbourg (France), 27-28 June 2016
  - European Social Cohesion Platform (ESCP)
- ▶ Strasbourg (France), 30 June 2016
  - MISSCEO meeting
- ▶ Strasbourg (France), 26 September 2016
  - 134th meeting of the Governmental Committee
- ▶ Belgrade (Serbia), 25 October 2016
  - Training on the Collective complaints procedure co-organised with the Serbian government
- ▶ Belgrade (Serbia), 26 October 2016
  - Meeting with Mr Nenad Ivanišević, State Secretary, Ministry of Labour, Employment, Veterans and Social Affairs
- ▶ Warsaw (Poland), 8 November 2016
  - Seminar “The European Social Charter: challenges and opportunities. 25th Anniversary of Polish membership to the Council of Europe” co-organised with the Polish Commissioner for Human Rights
- ▶ Strasbourg (France), 24 November 2016
  - Meeting of the Bureau of the Governmental Committee of the European Social Charter and the European Code of Social Security
- ▶ Strasbourg (France), 1 December 2016
  - Presentation of the Charter to the French parliamentarians
- ▶ Kyiv (Ukraine), 13 December 2016
  - Seminar on the European Social Charter

## Meetings on non-accepted provisions

- ▶ Kyiv (Ukraine), 23 March 2016
  - Meeting on non-accepted provisions
- ▶ Vilnius (Lithuania), 6 April 2016
  - Meeting on non-accepted provisions
- ▶ Vienna (Austria), 28 April 2016
  - Meeting on non-accepted provisions

## Events organised by other departments of the Council of Europe

- ▶ Strasbourg (France), Council of Europe, 11 January 2016
  - Introduction to the European Social Charter to the students of Esslingen University
- ▶ Strasbourg (France), European Court of Human Rights, 23 February 2016
  - Study visit of judges of ordinary courts of Kosovo
- ▶ Strasbourg (France), European Court of Human Rights, 24 February 2016
  - Presentation of the European Social Charter to Bulgarian judges and prosecutors
- ▶ Strasbourg (France), *Palais de l'Europe*, 26 February 2016
  - Presentation of the European Social Charter to Greek students of International Law and Diplomatic Studies
- ▶ Sofia (Bulgaria), 5 April 2016
  - Conference on the Council of Europe Strategy for the Rights of the Child
- ▶ Strasbourg (France), 29 April 2016
  - Presentation of the Charter to the students of The School of Social Work of Strasbourg (E.S.T.E.S.)
- ▶ Strasbourg (France), 10 May 2016
  - Presentation on the Charter to the members of the European Judicial Training Network
- ▶ Strasbourg (France), 25 May 2016
  - Council of Europe, Human Rights National Implementation Division
  - Study visit of Lawyers of Kosovo\* Bar Association
- ▶ Strasbourg (France), 25 May 2016
  - Study visit of Versailles St-Quentin University, Public Institutions
- ▶ Strasbourg (France), 25 May 2016
  - Presentation of the Charter to the judges of the French National School for the Judiciary
- ▶ Strasbourg (France), 2 June 2016
  - 2<sup>nd</sup> meeting of the new dialogue mechanism with Roma Organisations
- ▶ Strasbourg (France), 14 June 2016
  - Visit of staff members of the Office of the People's Advocate of the Republic of Moldova

- ▶ Strasbourg (France), 23 June 2016
  - Presentation of the Charter to the judges of the French National School for the Judiciary
- ▶ Portoroz (Slovenia), 26-27 September 2016
  - European Seminar on Labour Rights as Human Rights
- ▶ Strasbourg (France), 28 September 2016
  - 1<sup>st</sup> meeting of the *ad hoc* Committee for the Rights of the Child
- ▶ Strasbourg (France), 5-7 October 2016
  - Ad hoc Committee of experts on the Rights of Persons with Disabilities (CAHDPH)
- ▶ Strasbourg (France), 17 October 2016
  - International day for the eradication of poverty - Youth facing poverty and social exclusion in Europe: the civil society and its answers
- ▶ Strasbourg (France), 18-21 October 2016
  - Congress of Regional and Local Authorities
- ▶ Paris (France), 28 October 2016
  - Parliamentary Assembly seminar on “The right of children and young people to social, legal and economic protection” (under Articles 7 and 17 of the European Social Charter)
- ▶ Strasbourg (France), 15 November 2016
  - Gender Equality Commission, Brainstorming meeting to draft a CM recommendation to combat sexism
- ▶ Strasbourg (France), 15 November 2016
  - Presentation of the Charter to the judges and prosecutors of the Republic of Belarus and representatives of Belarusian State University

### Events organised by NGOs

- ▶ Brussels (Belgium), 16 February 2016
  - Caritas Europa conference, *Plaidoyer pour le processus de Turin*
- ▶ Moscow (Russian Federation), 28 April 2016
  - Congress of Social Workers
- ▶ Vienna (Austria), 23 June 2016
  - FRA Fundamental Rights Forum
- ▶ Belgrade (Serbia), 10 October 2016
  - 3<sup>rd</sup> meeting of COE FRA ENNHRI EQUINET
- ▶ Belgrade (Serbia), 25 October 2016
  - Training on the European Social Charter for NGOs
- ▶ Berlin (Germany), 18 November 2016
  - Training on the Turin Process at Caritas Europe

## Events organised by Universities

- ▶ Grenoble (France), Pierre-Mendes-France University, 15 January 2016
  - Conference “La Charte sociale européenne ou la protection des droits économiques et sociaux au cœur de l’action du Conseil de l’Europe en faveur de la démocratie et des droits de l’homme”
- ▶ Aix-en-Provence (France), 26 February 2016
  - Law Faculty of Aix-en-Provence, Conference “L’adhésion de l’Union européenne à la Convention européenne des droits de l’homme et à la Charte sociale européenne - Etat des lieux et perspectives”
- ▶ Reggio Calabria (Italy), University *Mediterranea* of Reggio Calabria, 26 February 2016
  - International Seminar on “The European Social Charter: universality of rights and effectiveness of protection”
- ▶ Moscow (Russian Federation), 8 April 2016
  - Lecture on the European Social Charter at the Moscow State Institute of International Relations
- ▶ Thessaloniki (Greece), 22 April 2016
  - Fundamental Social Rights in Europe and outside Europe
- ▶ Leiden (the Netherlands), 22 April 2016
  - Conference for international labour law judges and other adjudicators, “Ensuring Coherence in Fundamental Labour Rights Case Law: Challenges and Opportunities”
- ▶ Strasbourg (France), Support for Research diploma of Strasbourg University, 25 April 2016
  - *La protection des travailleurs dans une Europe en crises: Révéler le potentiel de la Charte sociale européenne 20 ans après sa révision*
- ▶ Barcelona (Spain), 26 April 2016
  - Human Rights Challenges in Europe: The Ombudsman Response
- ▶ Rome (Italy), 28 April 2016, Link Campus University
  - Training on the Charter to the Italian media
- ▶ Corunna (Spain), 27 May 2016
  - Conference at the University of Corunna on the importance of the ratification of the European Social Charter and acceptance of the collective complaints procedure by Spain
- ▶ Nafplio (Greece), 27 – 28 May 2016
  - International conference “The protection of asylum seekers, refugees and migrants”
- ▶ Strasbourg (France), 15 September 2016
  - Presentation on the “Impact of the European Social Charter on fundamental social rights” to Danish Labour lawyers in the framework of a programme organised by the Academy of European Law in Trier.

- ▶ Lyon (France), 15-16 September 2016
  - Collective bargaining in times of crisis, University of Lyon
- ▶ Paris (France), 13-14 October 2016
  - French section of the Academic network of the Social Charter and Social Rights, international Colloquy “Economic crisis and social rights: a weakened standard of protection?”
- ▶ Strasbourg (France), 14 October 2016
  - Presentation at the School of Social Work of Strasbourg (E.S.T.E.S.)
- ▶ Tallinn (Estonia), 3 – 4 November 2016
  - Conference on Children’s Rights in the Migration Crisis and in the Digital Environment
- ▶ Grenoble (France), 4 November 2016
  - Course on the European Committee of Social Rights within the framework of the training “Non-jurisdictional protection of Human rights in the Council of Europe” to the students of Master 2 European legal careers
- ▶ Nantes (France), Institute for Advanced Studies Foundation, 9 November 2016
  - Conference on the inequality of the distribution of income: “Legal causes of the growing inequality in the distribution of wealth, in the context of tension generated by the policies adopted by the European Union – the role of the ECSR
- ▶ Valencia (Spain), 18 November 2016
  - Colloquy on Social Rights
- ▶ Sofia (Bulgaria), 21-22 November 2016
  - International scientific and practical conference on “Law and Social Policy”, Sofia University “St. Kliment Ochridski”
- ▶ Brussels (Belgium), 25 November 2016
  - Colloquy on Social Rights at the University of Saint-Louis

### Other meetings

- ▶ Strasbourg (France), 18 January 2016
  - Meeting with the Secretary General’s new Special Representative on Migration and Refugees, Ambassador Tomas BOCEK
- ▶ Strasbourg (France), Agora, 2 March 2016
  - Meeting with ILO officials on case management of collective complaints
- ▶ Brdo (Slovenia), 11-12 April 2016
  - International conference “Aging: Rights for Empowerment”
- ▶ Sochi (Russian Federation), 21 April 2016
  - Russia Health and Safety at work week
- ▶ Andorre-la-Vieille (Andorra), 28 April 2016
  - Conference on the implementation of the European Social Charter in Andorra
- ▶ Strasbourg (France), 21 May 2016, European Parliament
  - European Youth Event 2016: Europe for the ‘happy few’ or social inclusion for all?

- ▶ Trier (Germany), 23-24 May 2016
  - Seminar “EU Disability Law and the UN Convention on the Rights of Persons with Disabilities”
- ▶ Bucharest (Romania), 31 May 2016
  - Seminar on the European Code of Social Security
- ▶ Brussels (Belgium), 1 June 2016
  - European Pillar of Social Rights - consultation process - work stream on EU social *acquis* - involvement of the CoE
- ▶ Amsterdam (The Netherlands), 6-7 June 2016
  - MISSOC meeting
- ▶ Hafnarfjörður (Iceland), 9 June 2016
  - UNHCR Round table on integration of refugees in Europe
- ▶ Athens (Greece), 10 September 2016
  - International colloquium on “A retrospective view on the future of labour law”
  - “The EU accession to the ESC and the ECHR: a comparative analysis of realisations and perspectives”
- ▶ Athens (Greece), 17 September 2016
  - Presentation “The European Social Charter and its contribution to workers’ protection”, Conference on Collective bargaining in the European Social model & the future of Work
- ▶ Minsk (Belarus), 21 September 2016
  - Seminar on a Comprehensive approach to the formation of a barrier-free environment (for the integration of disabled people into society). Challenges and Strategies
- ▶ Vladivostok (Russian Federation), 6 – 7 October 2016
  - Workshop on the European Social Charter and the European Code of Social Security, Asia Pacific Summit of social workers
- ▶ Belgrade (Serbia), 26 October 2016
  - Conference “The Poverty Map of Serbia - Findings And Policy Implications” organised by the Ministry of Labour, Employment, Veterans and Social Affairs and the World Bank
- ▶ Bucharest (Romania), 2 November 2016
  - 10th National Congress of the National Trade Union Bloc (BNS) confederation
- ▶ Rome (Italy), 3 November 2016
  - Colloquy on the 20<sup>th</sup> anniversary of the Revised Social Charter
- ▶ Bratislava (Slovak Republic), 11 November 2016
  - MISSOC meeting
- ▶ Strasbourg (France), 24 November 2016
  - Presentation on the provisions of the European Social Charter relating to trade union rights and relationship between the Charter and the EU Pillar of Social Rights to the Trade Union Intergroup of the EU Parliament

- ▶ Gerona (Spain), 23 – 25 November 2016
  - Local Ombudsman International Congress “Human Rights: think globally, defend locally”
- ▶ Brussels (Belgium), 28 November 2016
  - Lecture on Protection of Social Rights in Europe: Challenges and Prospects, organised by FRAME
- ▶ Geneva (Switzerland), 5 December 2016
  - ILO Committee of Experts on the Application of Conventions and Recommendations

## Appendix 4.

### Selection of judicial decisions from 2016 referring to the European Social Charter

#### Poland

- ▶ Decision of the Constitutional Tribunal No. SK 18/15 of 29 November 2016 (reference to the Article 4§2 of the European Social Charter)
- ▶ Decision of the Constitutional Tribunal No. K 33/14 of 19 July 2016
- ▶ Judgment of the Supreme Court (Labour Law, Social Security and Public Affairs Chamber) No. III PK 146/15 of 13 September 2016 (reference to the Article 3 of the European Social Charter)
- ▶ Judgment of the Supreme Court (Labour Law, Social Security and Public Affairs Chamber) No. II UZ 53/15 of 8 March 2016 (general reference to the European Social Charter)
- ▶ Judgment of the Supreme Administrative Court No. I OSK 2493/14 of 14 April 2016 (reference to Articles 16 and 31 of the European Social Charter)
- ▶ Judgment of the Supreme Administrative Court No. II GPS 2/15 of 23 May 2016 (reference to the European Social Charter)
- ▶ Judgment of the Court of Appeal in Białystok No. III AUa 19/16 of 16 June 2016 (reference to the European Social Charter)
- ▶ Judgment of the Court of Appeal in Katowice No. III APz 8/16 of 14 March 2016 (reference to the Article 6§4 of the European Social Charter)
- ▶ Judgment of the Court of Appeal in Szczecin No. III AUa 341/15 of 19 January 2016

#### Norway

- ▶ Supreme Court HR-2016-296-A, (case No. 2015/1524), civil case, appeal against judgment of 8 February 2016 with extensive references to the Charter, the Committee and its decision in *Fellesforbundet for Sjøfolk v. Norway*, Complaint No. 74/2011, decision on the merits of 2 July 2013 (no liability for the State to pay legal costs to claimant in connection with the identified breach of the Charter).  
<http://www.domstol.no/en/Enkelt-domstol/-Norges-Hoyesterett/Summary-of-Recent-Supreme-Court-Decisions/2016/>
- ▶ Supreme Court HR-2016-2554-P, (case No. 2014/2089), civil case, appeal against judgment, 16 December 2016 (reference to the Committee's decision in *LO and TCO vs. Sweden*, Complaint No. 85/2012, decision on the merits of 3 July 2013).  
<http://www.domstol.no/no/Enkelt-domstol/-Norges-Hoyesterett/Avgjorelser/avgjorelser-2016/avdeling---straffesaker/plenum/>
- ▶ Eidsivating Court of appeal, judgment of 8 April 2016 (reference to Article 2§1 of the Charter).



## Spain

- ▶ Superior Tribunal of Justice of Castilla y León de Valladolid, judgment of 19 December 2016, Rec. 2099/2016 (direct application of the European Social Charter and binding effect of the European Committee of Social Rights decisions in the interpretation of national legislation)
- ▶ Several decisions of the Supreme Court of Justice of the Canaries (Spain) which directly applied the European Social Charter and which recognise the obligatory effect of the Committee's interpretations:
  - Supreme Court of Justice of the Canaries (Las Palmas de Grande Canary), social chamber, decision 30/2016 of 28 January 2016, Application 581/2015
  - Supreme Court of Justice of the Canaries (Las Palmas de Grande Canary), social chamber, decision 252/2016 of 30 March 2016, Application 989/2015
  - Supreme Court of Justice of the Canaries (Las Palmas de Grande Canary), social chamber, decision 342/2016 of 18 April 2016, Application 110/2016
- ▶ Decision of the Judge of Social Order No. 3 of La Coruña, No. 493/2015 of 23 November 2015 which directly applies Article 12 of the European Social Charter in Spain based on the Committee's decision on the merits of 7 December 2012 in Federation of employed pensioners of Greece (IKA-ETAM) v. Greece Complaint No. 76/2012.

## European Court of Human Rights

- ▶ Case Gadaa Ibrahim HUNDE v. the Netherlands, application No. 17931/16, concerning the lack of social provisions by the state for rejected asylum-seekers who cannot return to their country of origin (decision of inadmissibility; reference to Article 13 - the right to social and medical assistance, and Article 31 - the right to housing, of the European Social Charter).
- ▶ Case Unite the Union v. United Kingdom, application No. 65397/13, decision of the Chamber of the European Court of Human Rights of 13 May 2016 (reference to Article 6 of the 1961 European Social Charter – the right to bargain collectively)
- ▶ Case Béláné Nagy v. Hungary, application No. 53080/13, final judgment of Grate Chamber of 13 December 2016 (reference to Article 12 of the Revised European Social Charter - the right to social security, and Article 15 - the right of persons with disabilities to independence, social integration and participation in the life of the community;)
- ▶ Case Paposvili v. Belgium, application No. 41738/10, final judgment of Grate Chamber of 12 December 2016 (reference of Article 11 § 1 of the Revised European Social Charter - right to protection of health, removal of the causes of ill-health)
- ▶ Case Muršić v. Croatia, application No. 7334/13, final judgment of Grate Chamber of 20 October 2016 (reference to Article 6§2 of the Revised European social Charter – the right to collective bargaining, promotion of machinery for voluntary negotiations between employers or between employers' organisations and workers' organisations).

## Appendix 5.

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## Appendix 6.

### List of collective complaints registered in 2016 and state of procedure as at 31 December 2016

#### List of complaints registered in 2016

En 2016, the Committee registered the following 21 complaints:

***Confederazione Generale Italiana del Lavoro (CGIL) v. Italy***

Complaint No.140/2016

***Central Union for Child Welfare (CUCW) v. Finlande***

Complaint No. 139/2016

***University Women of Europe (UWE) v. Sweden***

Complaint No. 138/2016

***University Women of Europe (UWE) v. Slovenia***

Complaint No. 137/2016

***University Women of Europe (UWE) v. Portugal***

Complaint No. 136/2016

***University Women of Europe (UWE) v. Norway***

Complaint No.135/2016

***University Women of Europe (UWE) v. the Netherlands***

Complaint No.134/2016

***University Women of Europe (UWE) v. Italy***

Complaint No.133/2016

***University Women of Europe (UWE) v. Ireland***

Complaint No.132/2016

***University Women of Europe (UWE) v. Greece***

Complaint No.131/2016

***University Women of Europe (UWE) v. France***

Complaint No.130/2016

***University Women of Europe (UWE) v. Finland***

Complaint No. 129/2016

***University Women of Europe (UWE) v. Czech Republic***

Complaint No. 128/2016

***University Women of Europe (UWE) v. Cyprus***

Complaint No.127/2016

***University Women of Europe (UWE) v. Croatia***

Complaint No. 126/2016

***University Women of Europe (UWE) v. Bulgaria***

Complaint No. 125/2016

**University Women of Europe (UWE) v. Belgium**

Complaint No. 124/2016

**Irish Congress of Trade Unions v. Ireland**

Complaint No.123/2016

**Movimento per la libertà della psicanalisi – Associazione culturale v. Italy**

Complaint No. 122/2016

**Equal Rights Trust (ERT) v. Bulgaria**

Complaint No. 121/2016

**Fellesforbundet for Sjøfolk (FFFS) v. Norway**

Complaint No. 120/2016

**Pending complaints and state of procedure**

On 31 December 2016, the following 31 complaints were currently on the Committee's agenda:

**Confederazione Generale Italiana del Lavoro (CGIL) v. Italy**

Complaint No.140/2016

The complaint was registered on 17 November 2016. It concerns Articles 5 (the right to organise) and 6 (the right to bargain collectively) of the Charter. The complainant trade Union, CGIL, alleges that in Italy, the *Guardia di Finanza* Regulations deprive its members of their rights to organise and to bargain collectively in violation of the aforementioned provisions.

**Central Union for Child Welfare (CUCW) v. Finland**

Complaint No.139/2016

The complaint was registered on 14 November 2016. Its concern Articles 16 (the right of the family to social, legal and economic protection), 17 (the right of children and young persons to social, legal and economic protection), and 27 (the right of workers with family responsibilities to equal opportunities and equal treatment), read alone or in conjunction with Article E (non discrimination) of the Charter. The complainant organisation alleges that Finland has, through the amendment of the Act on Early Childhood Education and Care that entered into force on 1 August 2016, violated the above mentioned provisions.

**University Women of Europe (UWE) v. Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal, Slovenia et Sweden**

Complaints Nos. 124/2016 to 138/2016

The complaints were registered on 24 August 2016 and relate to Articles 1 ( the right to work) and 4§3 (the right to a fair remuneration - non-discrimination between women and men with respect to remuneration) in the light of the non-discrimination principle contained in the preamble of the 1961 Charter and to Article 1 (the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex) of the Additional Protocol of

1988 to the 1961 Charter and/or on Articles 1 (op cit), 4§3 (op cit) and 20 (the right to equal opportunities and treatment in employment and occupation without sex discrimination) in conjunction with Article E (non-discrimination) of the Charter. The complainant organisation alleges that the defending States fail to observe the principle of equal pay for women and men for equal, similar or comparable work in breach of the above-mentioned provisions.

### ***Irish Congress of Trade Unions v. Ireland***

Complaint No. 123/2016

The complaint registered on 8 August 2016, relates to Article 6 (the right to bargain collectively) of the Charter. The organisation, ICTU, complains that certain workers - deemed self employed - such as voice over actors, freelance journalists, and some musicians, are precluded from entering into collective agreements setting out minimum rates of pay and other working conditions, as this would amount to a breach of competition law, in violation of the above mentioned provision.

### ***Movimento per la libertà della psicanalisi – Associazione culturale v. Italy***

Complaint No. 122/2016

The complaint No. 122/2016 *Movimento per la libertà della psicanalisi – Associazione culturale v. Italy*, was registered on 7 June 2016. It relates to Article 1§2 (the right to earn his living in an occupation freely entered upon) of the Charter. The organisation complains the lack of freedom to practice the profession of psychoanalysts since the rules require that this activity should be exercised exclusively by doctors or psychologists belonging to professional orders.

### ***Equal Rights Trust (ERT) v. Bulgaria***

Complaint No. 121/2016

The complaint registered on 25 April 2016, relates to Article 12 (the right to social security), 16 (the right to appropriate social, legal and economic protection for the family), 17 (the right of children and young persons to appropriate social, legal and economic protection) taken alone or in conjunction with the non-discrimination clause set forth in Article E of the Charter. The complainant organisation, Equal Rights Trust (ERT), alleges that the Family Allowances for Children Act [‘FACA’], as amended on 28 July 2015, violates the above mentioned provisions.

The European Committee of Social Rights declared the complaint admissible on 5 July 2016.

### ***Forum européen des Roms et des Gens du Voyage (FERV) c. France***

Complaint No. 119/2015

The complaint, registered on 19 October 2015, relates to Articles 17§2 (the right of children and young persons to appropriate social, legal and economic protection – free primary and secondary education – regular attendance at school) and 10§5 (the right to vocational training – full use of facilities available), as well as Articles 16 (the right to appropriate social, legal and economic protection for the family), 30 (the right to protection against poverty and social exclusion) and 31 (the right to

housing), read in conjunction with Article E (non-discrimination) of the Charter. The complainant organisation, ERTF, alleges that France fails to give effective protection to the rights of Roma children, in particular as regards their access to education and vocational training.

The European Committee of Social Rights declared the complaint admissible on 27 January 2016.

### ***Confédération Générale du Travail Force Ouvrière (CGT-FO) v. France***

Complaint No. 118/2015

The complaint, registered on 29 April 2015, relates to Article 6 (the right to bargain collectively) of the Revised European Social Charter. CGT-FO alleges that the conditions imposed by French legislation on supplementary social protection of employees, and more specifically on the choice of an insuring body, do not comply with Article 6§2 of the Charter.

The European Committee of Social Rights declared the complaint admissible on 9 September 2015.

### ***Transgender-Europe and ILGA-Europe v. Czech Republic***

Complaint no. 117/2015

The complaint, registered on 30 March 2015, relates to Article 11 (the right to protection of health), read alone or in conjunction with the non-discrimination principle in the Preamble of the 1961 Charter. The complainant organisations, Transgender Europe and ILGA-Europe, allege that, in the Czech Republic, the legal requirement of sterilisation imposed on transgender people wishing to change their personal documents so that they reflect their gender identity is in breach of the above mentioned provisions of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 9 September 2015.

### ***Matica hrvatskih sindikata v. Croatia***

Complaint No. 116/2015

The complaint, registered on 24 March 2015, relates to Articles 5 (the right to organise) and 6 (the right to bargain collectively) of the 1961 Charter. The complainant organisation, MATICA, the Association of Croatian public sector unions, alleges that Act No. 143/2012 on withdrawal of certain substantive rights of persons employed in public services, brought into force by the Government of Croatia on 20 December 2012, was enacted in violation of the above provisions of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 9 September 2015.



### **European Federation of Employees in Public Services (EUROFEDOP) v. Greece**

Complaint no. 115/2015

The complaint, registered on 12 March 2015, relates to Articles 1§2 (prohibition of forced labour) and 18§4 (the right of nationals to leave the country) of the 1961 Charter. The complainant organisation, the European Federation of Employees in Public Services (EUROFEDOP), alleges that regulations concerning the length of compulsory service imposed on medical officer-doctors of the armed forces in Greece, pursuant to Greek Law No 3257/2004, violate the above mentioned provisions of the 1961 Charter.

The European Committee of Social Rights declared the complaint admissible on 9 September 2015.

### **European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France**

Complaint No. 114/2015

The complaint, registered on 27 February 2015, relates to Articles 7 (the right of children and young persons to protection), 11 (the right to health), 13 (the right to social and medical assistance), 14 (the right to benefit from social welfare services), 17 (the right of children and young persons to appropriate social, legal and economic protection), 30 (the right to protection against poverty and social exclusion) and 31 (the right to housing), read alone or in conjunction with the non-discrimination clause in Article E of the Charter. The complainant organisation alleges that France fails to fulfill its obligations under the above mentioned provisions of the Charter as regards the accommodation and care of foreign unaccompanied minors.

The European Committee of Social Rights declared the complaint admissible on 30 June 2015.

### **Unione Italiana del Lavoro U.I.L. Scuola – Sicilia v. Italy**

Complaint No. 113/2014

The complaint, registered on 14 November 2014, relates to Articles 12 (the right to social security) and 25 (the right of workers to the protection of their claims in the event of the insolvency of their employer), in combination with the non-discrimination clause in section E of the Charter. The complainant trade union alleges that under the Italian regulations on social protection – particularly joint ministerial decree no. 83473 of 1 August 2014 – only companies are eligible for assistance paid by the *Cassa integrazione guadagni* (redundancy fund), thus excluding training bodies established in the form of non-profit-making associations, in violation of the aforementioned provisions of the Charter.

On 9 September 2015, the European Committee of Social Rights declared the complaint admissible, by 10 votes to 3, and decided unanimously to implement the immediate measures procedure.

## **European Organisation of Military Associations (EUROMIL) v. Ireland**

Complaint No. 112/2014

The complaint, registered on 4 November 2014, relates to Articles 5 (the right to organise) and 6 (the right to bargain collectively) of the Charter. The complainant organisation, EUROMIL, alleges that defence forces' representative associations in Ireland do not have full trade union rights, including the right to join an umbrella organisation, in breach of the above mentioned provisions.

The European Committee of Social Rights declared the complaint admissible on 30 June 2015.

## **Greek General Confederation of Labour (GSEE) v. Greece**

Complaint No. 111/2014

The complaint, registered on 26 September 2014, concerns Articles 1 (the right to work), 2 (the right to just conditions of work), 4 (the right to a fair remuneration) and 7 (the right of children and young persons to protection) of the 1961 Charter, as well as Article 3 of the 1988 Additional Protocol (the right to take part in the determination and improvement of working conditions and the working environment). The complainant trade union, GSEE, alleges that some of the new legislation enacted as part of the austerity measures adopted in Greece during the economic and financial crisis affects workers' rights in a manner that is in breach of the Charter.

The European Committee of Social Rights declared the complaint admissible on 19 May 2015.

The European Committee of Social Rights held a public hearing on 20 October 2016.

## **International Federation for Human Rights (FIDH) v. Ireland**

Complaint No. 110/2014

The complaint, registered on 18 July 2014, relates to Articles 11 (the right to protection of health), 16 (the right of the family to social, legal and economic protection), 17 (the right of children and young persons to social, legal and economic protection) and 30 (the right to protection against poverty and social exclusion) of the Revised European Social Charter, read alone or in conjunction with the non-discrimination clause in Article E of the Revised European Social Charter. The complainant organisation, FIDH, alleges that Irish law, policy and practices on social housing do not comply with European housing, social protection and anti-discrimination standards, in breach of the above mentioned provisions.

The European Committee of Social Rights declared the complaint admissible on 17 March 2015.

## **Mental Disability Advocacy Centre (MDAC) v. Belgium**

Complaint No. 109/2014

The complaint, registered on 30 April 2014, relates to Articles 15 (right of persons with disabilities to independence, social integration and participation in the life of the community) and 17 (right of children and young persons to social, legal

and economic protection) of the Revised European Social Charter. The complaint alleges that Belgium has failed to provide education and training for children with intellectual and mental disabilities who are denied access to mainstream education and to the supports necessary to ensure such inclusion, in violation of the above mentioned provisions.

## Appendix 7.

### Number of decisions adopted by the European Committee of Social Rights 1998 – 2016

Years	Registered complaints	Pending complaints on 1 January	Decisions on admissibility	Decisions on the merits	Decisions on admissibility and the merits	Decisions on immediate measures	striking off / inadmissibility	Total decisions
1998	1	0	0	0	0	0	0	0
1999	5	1	1	1	0	0	0/1	3
2000	4	4	7	5	0	0	0	12
2001	1	3	2	3	0	0	0	5
2002	2	1	2	1	0	0	0	3
2003	10	2	8	2	0	0	0	10
2004	5	10	6	10	0	0	0	16
2005	4	5	3	4	0	0	0/2	9
2006	7	3	4	4	0	0	0/1	9
2007	7	5	7	5	0	0	0	12
2008	8	7	8	5	0	0	1/0	14
2009	5	9	7	7	0	0	0	14
2010	4	7	3	6	0	0	0	9
2011	12	5	11	4	0	0	0	15
2012	13	13	9	15	0	0	0	24

Years	Registered complaints	Pending complaints on 1 January	Decisions on admissibility	Decisions on the merits	Decisions on admissibility and the merits	Decisions on immediate measures	striking off / inadmissibility	Total decisions
2013	15	11	14 (18 <sup>1</sup> )	5 (9 <sup>1</sup> )	4	4	0	27
2014	10	17	3	8	0	0	1/0	12
2015	6	18	10 (11 <sup>1</sup> )	4 (5 <sup>1</sup> )	1	(1) <sup>2</sup>	0	16
2016	21	19	2 (6 <sup>1</sup> )	5 (8 <sup>1</sup> )	3	0	0/1	11
<b>Total</b>	<b>140</b>	<b>31</b>	<b>112</b>	<b>94</b>	<b>8</b>	<b>4 (5)<sup>2</sup></b>	<b>2/5</b>	<b>221</b>

<sup>1</sup> taking into account decision on both admissibility and the merits / <sup>2</sup> decision on both admissibility and immediate measures

## Collective Complaints – Statistic by Country – 31 December 2016

	Registered complaints	Decisions on admissibility	admissible	unadmissible	Decisions on immediate measures	Decisions on the merits	violation	Non violation	Decision to strike out
Belgium	9	8	8	0	1	7	6	1	0
Bulgaria	8	6	6	0	0	5	5	0	1
Croatia	4	3	3	0	0	2	2	0	0
Chypre	2	1	1	0	0	-	-	-	1
Czech Republic	4	3	3	0	0	2	2	0	0
Finland	10	5 (8*)	5 (8*)	0	0	5 (8*)	6	2	0
France	35	32 (34*)	30 (32*)	2	0	27 (29*)	21	6 (8*)	0
Greece	18	17	16	1	0	14	14	1	0
Ireland	10	7 (8*)	7 (8*)	0	1	5 (6*)	4(5*)	1	0
Italy	13	9(10*)	10	0	1**	7 (8*)	4(5*)	3	0
The Netherlands	4	3	3	0	2	3	3	0	0
Norway	4	3	2	1	0	2	1	1	0
Portugal	12	11	10	1	0	10	4	6	0
Slovenia	3	2	2	0	0	2	2	0	0
Sweden	4	2 (3*)	2 (3*)	0	0	2(3*)	1 (2*)	1	0
Total	140	112 (117*)	107 (112*)	5	5 (1*)	93 (101*)	78	24	2

\* Taking into account decision both on admissibility and the merits / \*\* Decision both on admissibility and immediate measures

## Appendix 8.

### Summary of the Committee's Conclusions for 2016

#### European Social Charter Revised – Conclusions 2016

Article	ALB	AND	ARM	AUT	AZE	BEL	BGR	BIH	CYP	EST	FIN	FRA	GEO	GRC	HUN	IRL	ITA	LTU	LVA	MDA	MKD	MLT	MNE	NLD	NOR	PRT	ROU	RUS	SRB	SVK	SVN	SWE	TUR	UKR	
Article 1.1		+	-	+	0	+	-	-		+	+	0	-	-	+	+	-	+	+		-	+	-			+	+	0						-	
Article 1.2		+	-	+	-	-	-	-		+	+	-	-	-	+	+	0	+	0		0	+	-			-	-	+	+					-	
Article 1.3		+	-	+	-	+	+	+		+	0	0	-	0	0	+	0	+	+		+	0	+			+	+	-	-					-	
Article 1.4		0	+	+	-	+	0	-		+	0	-	-	0	0	0	0	0	0		-	-	-			+	-	-	-					-	
Article 2.1																																			
Article 2.2													-																						
Article 2.3																+																			
Article 2.4																																			
Article 2.5			+										-																						
Article 2.6			+																														+		
Article 2.7																																			-

Article	ALB	AND	ARM	AUT	AZE	BEL	BGR	BIH	CYP	EST	FIN	FRA	GEO	GRC	HUN	IRL	ITA	LTU	LVA	MDA	MKD	MLT	MNE	NLD	NOR	PRT	ROU	RUS	SRB	SVK	SVN	SWE	TUR	UKR				
Article 4.1						+																	0															
Article 4.2																																						
Article 5																																						
Article 6.1																																						
Article 6.2																																						
Article 6.3																																						
Article 6.4																																						
Article 9																																						
Article 10.1																																						
Article 10.2																																						
Article 10.3																																						
Article 10.4																																						
Article 10.5																																						
Article 15.1																																						
Article 15.2																																						
Article 15.3																																						
Article 18.1																																						



Article	ALB	AND	ARM	AUT	AZE	BEL	BGR	BIH	CYP	EST	FIN	FRA	GEO	GRC	HUN	IRL	ITA	LTU	LVA	MDA	MKD	MLT	MNE	NLD	NOR	PRT	ROU	RUS	SRB	SVK	SVN	SWE	TUR	UKR	
Article 18.2		0	+	+	+	+			+		+	+	+	+		-	+									+								-	
Article 18.3			+		-	-					+	+	+	+		+	-									0	+							+	
Article 18.4		+	+	+	+	+	+			+	+	+	+	+		+	+	+	0	+		+				+	+	+						0	
Article 20		+	-	0	-	+	0	-		-	+	+	-		+	+	+	+	0	0	-	-	-			0	+	-	+					-	
P Article 1													+																						
Article 21																	+																		
Article 22							-										+									+									-
Article 24					+		-			+	-	0					-		+	+	+	0	-	-		+	+	+						0	+
Article 25				+		-	+			+	+	+				+	+	+	+	+						-	0	+	+						-
Article 26.1																																			-
Article 26.2													-								+														-
Article 28											-																								-

+ Conformity	- Non conformity	0 Deferral	<input type="checkbox"/> Non accepted provision
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- Albania has not submitted a report for 2016, so no conclusions were adopted in respect of Albania in 2016.
- Luxembourg submitted its report later, therefore the conclusions 2016 in respect of Luxembourg will be adopted in 2017.
- There were no decisions concerned in respect of Cyprus.

## Charte sociale européenne de 1961 - Conclusions XXI-1 (2016)

Article	CZE	DEU	DNK	ESP	GBR	HRV	ISL	POL
Article 1.1		+	+	-	+		+	+
Article 1.2		+	+	-	+		-	0
Article 1.3		+	0	-	+		+	0
Article 1.4		0	-	0	0		-	+
Article 2.4				0	-			
Article 4.5					-			
Article 9		0	+	+	+			+
Article 10.1		+	+	-	+			+
Article 10.2		+	+	+	+			+
Article 10.3		+	+	0	0			
Article 10.4			-	+	0			
Article 15.1		+	-	+	0		-	+
Article 15.2		+	+	+	+		-	+
Article 18.1		-	+	-	+		+	
Article 18.2		+	+	+	-		-	
Article 18.3		-	+	+	0		-	
Article 18.4		+	+	+	+		+	+
P Article 1			+	+				

+ Conformity	- Non conformity	0 Deferral	<input type="checkbox"/> Non accepted provision
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## Reporting procedure: Committee assessments 2006-2016

	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006
Examined situations	576	824	724	568	608	950	569	572	425	839	915
Conformity	277	452	337	277	277	459	271	281	185	363	461
	48%	55%	46%	49%	45%	48%	48%	49%	43%	43%	50%
Non-conformity	204	278	252	181	156	256	184	164	126	230	244
	35%	34%	35%	32%	26%	27%	32%	29%	30%	28%	27%
Deferral	95	94	135	110	175	235	114	127	114	246	210
	16%	11%	19%	19%	29%	25%	20%	22%	27%	29%	23%

## Appendix 9.

### Acceptance of provisions of the Revised European Social Charter (1996)

### Acceptation des dispositions de la Charte sociale européenne révisée (1996)

accepted/ accepté       not accepted/ non accepté

Articles 1-4 Para.	Article 1				Article 2							Article 3				Article 4				
	1	2	3	4	1	2	3	4	5	6	7	1	2	3	4	1	2	3	4	5
Albania/Albanie																				
Andorra/Andorre																				
Armenia/Arménie																				
Austria/Autriche																				
Azerbaijan/ Azerbaïdjan																				
Belgium/Belgique																				
Bosnia and Herzegovina/ Bosnie-Herzégovine																				
Bulgaria/Bulgarie																				
Cyprus/Chypre																				
Estonia/Estonie																				
Finland/Finlande																				
France																				
Georgia/Géorgie																				
Greece/Grèce																				
Hungary/Hongrie																				
Ireland/Irlande																				
Italy/Italie																				
Latvia/Lettonie																				
Lithuania/Lituanie																				
Malta/Malte																				
Republic of Moldova/République de Moldova																				
Montenegro/ Monténégro																				
Netherlands/ Pays-Bas <sup>18</sup>																				
Norway/Norvège																				

18. Ratification by the Kingdom in Europe. Aruba, Curaçao and Sint Maarten, as well as the special municipalities of Bonaire, Saba and Sint Eustatius remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the Additional Protocol/ *Ratification par le Royaume en Europe. Aruba, Curaçao et Saint-Martin, ainsi que les municipalités spéciales de Bonaire, Saba et Saint-Eustache restent liées par les articles 1, 5, 6 et 16 de la Charte de 1961 et de l'Article 1 du Protocole additionnel.*

<b>Articles 1-4</b> <b>Para.</b>	<b>Article 1</b>				<b>Article 2</b>							<b>Article 3</b>				<b>Article 4</b>				
	1	2	3	4	1	2	3	4	5	6	7	1	2	3	4	1	2	3	4	5
Portugal																				
Romania/Roumanie																				
Russian Federation / Fédération de Russie																				
Serbia/Serbie																				
Slovak Republic/ République Slovaque																				
Slovenia/Slovénie																				
Sweden/Suède																				
"The former Yugoslav Republic of Macedonia"/"L'ex- République yougo- slave de Macédoine																				
Turkey/Turquie																				
Ukraine																				

<b>Articles 5-9</b> <b>Para.</b>	<b>Art.</b> <b>5</b>	<b>Article 6</b>				<b>Article 7</b>										<b>Article 8</b>					<b>Art.</b> <b>9</b>
		1	2	3	4	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	
Albania/Albanie																					
Andorra/Andorre																					
Armenia/Arménie																					
Austria/Autriche																					
Azerbaijan/ Azerbaïdjan																					
Belgium/Belgique																					
Bosnia and Herzegovina/ Bosnie- Herzégovine																					
Bulgaria/Bulgarie																					
Cyprus/Chypre																					
Estonia/Estonie																					
Finland/Finlande																					
France																					
Georgia/Géorgie																					
Greece/Grèce <sup>19</sup>																					

19. Ratification of Article 6 except for the right to establish and use arbitration mechanisms for the settlement of labour disputes, in particular as regards the right to unilateral access to arbitration in case of collective bargaining failure, as well as the employers' right to collective action, in particular the right to lockouts.

Articles 5-9 Para.	Art.	Article 6				Article 7										Article 8					Art.
	5	1	2	3	4	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	9
Hungary/Hongrie																					
Ireland/Irlande																					
Italy/Italie																					
Latvia/Lettonie																					
Lithuania/ Lituanie																					
Malta/Malte																					
Republic of Moldova/ République de Moldova																					
Montenegro/ Monténégro																					
Netherlands/ Pays-Bas <sup>20</sup>																					
Norway/Norvège																					
Portugal																					
Romania/ Roumanie																					
Russian Federation / Fédération de Russie																					
Serbia/Serbie					21																
Slovak Republic/ République Slovaque																					
Slovenia/Slovénie																					
Sweden/Suède																					
“The former Yugoslav Republic of Macedonia”/ “L’ex-République yougoslave de Macédoine																					
Turkey/Turquie																					
Ukraine/Ukraine																					

Articles 10-15 Para.	Article 10					Article 11			Article 12				Article 13				Art. 14		Article 15		
	1	2	3	4	5	1	2	3	1	2	3	4	1	2	3	4	1	2	1	2	3
Albania/Albanie																					
Andorra/Andorre																					
Armenia/Arménie																					
Austria/Autriche																					
Azerbaijan/ Azerbaïdjan																					
Belgium/Belgique																					
Bosnia and Herzegovina/ Bosnie-Herzégovine																					
Bulgaria/Bulgarie																					
Cyprus/Chypre																					
Estonia/Estonie																					
Finland/Finlande																					
France																					
Georgia/Géorgie																					
Greece/Grèce																					
Hungary/Hongrie																					
Ireland/Irlande																					
Italy/Italie																					
Latvia/Lettonie																					
Lithuania/Lituanie																					
Malta/Malte					22							23									
Republic of Moldova/ République de Moldova																					
Montenegro/ Monténégro																					
Netherlands/ Pays-Bas																					
Norway/Norvège																					
Portugal																					
Romania/Roumanie																					

20. Ratification by the Kingdom in Europe. Aruba, Curaçao and Sint Maarten, as well as the special municipalities of Bonaire, Saba and Sint Eustatius remain bound by Articles 1, 5, 6 and 16 of the 1961 Charter and Article 1 of the Additional Protocol/ *Ratification par le Royaume en Europe. Aruba, Curaçao et Saint-Martin, ainsi que les municipalités spéciales de Bonaire, Saba et Saint-Eustache restent liés par les articles 1, 5, 6 et 16 de la Charte de 1961 et de l'Article 1 du Protocole additionnel.*

21. With the exception of professional military personnel of the Serbian Army / *A l'exception des militaires de carrière de l'Armée serbe.*

22. Sub-paragraphs a. and d. accepted/ *Alinéas a. et d. acceptés.*

23. Sub-paragraph a. accepted/ *Alinéa a. accepté.*

<i>Articles 10-15</i> <i>Para.</i>	Article 10					Article 11			Article 12				Article 13				Art. 14		Article 15		
	1	2	3	4	5	1	2	3	1	2	3	4	1	2	3	4	1	2	1	2	3
Russian Federation /Fédération de Russie																					
Serbia/Serbie																					
Slovak Republic/ République Slovaque																					
Slovenia/Slovénie																					
Sweden/Suède																					
"The former Yugoslav Republic of Macedonia"/ "L'ex-République yougoslave de Macédoine"																					
Turkey/Turquie																					
Ukraine																					

<i>Articles 16-19</i> <i>Para</i>	Art. 16	Art. 17		Article 18				Article 19											
	16	1	2	1	2	3	4	1	2	3	4	5	6	7	8	9	10	11	12
Albania/Albanie																			
Andorra/Andorre																			
Armenia/Arménie																			
Austria/Autriche																			
Azerbaijan/ Azerbaïdjan																			
Belgium/Belgique																			
Bosnia and Herzegovina/ Bosnie-Herzégovine																			
Bulgaria/Bulgarie																			
Cyprus/Chypre																			
Estonia/Estonie																			
Finland/Finlande																			
France																			
Georgia/Géorgie																			
Greece/Grèce																			
Hungary/Hongrie																			
Ireland/Irlande																			
Italy/Italie																			
Latvia/Lettonie																			

24. Sub-paragraphs 1b and 1c accepted / *Alinéas 1b et 1c acceptés*

25. Sub-paragraphs a. and b. accepted / *Alinéas a. and b. acceptés*



<i>Articles 16-19</i> <i>Para</i>	Art.	Art. 17		Article 18				Article 19											
	16	1	2	1	2	3	4	1	2	3	4	5	6	7	8	9	10	11	12
Lithuania/Lituanie																			
Malta/Malte																			
Republic of Moldova/ République de Moldova																			
Montenegro/ Monténégro																			
Netherlands/ Pays-Bas																			
Norway/Norvège																			
Portugal																			
Romania/Roumanie																			
Russian Federation/ Fédération de Russie																			
Serbia/Serbie		24																	
Slovak Republic/ République Slovaque												25							
Slovenia/Slovénie																			
Sweden/Suède																			
"The former Yugoslav Republic of Macedonia"/ "L'ex-République yougoslave de Macédoine"																			
Turkey/Turquie																			
Ukraine																			

<i>Articles 20-31</i> <i>Para.</i>	Art.	Art.	Art.	Art.	Art.	Art.	Art. 26		Art. 27			Art.	Art.	Art.	Article 31			
	20	21	22	23	24	25	1	2	1	2	3	28	29	30	1	2	3	
Albania/Albanie																		
Andorra/Andorre																		
Armenia/Arménie																		
Austria/Autriche																		
Azerbaijan/ Azerbaïdjan																		

26. Sub-paragraph b. accepted / *Alinéa b. accepté*

27. Sub-paragraphs a. and b. accepted / *Alinéas a. et b. acceptés*

28. Sub-paragraph a. accepted / *Alinéa a. accepté*

29. Sub-paragraph c. accepted / *Alinéa c. accepté*

Articles 20-31 Para.	Art. 20	Art. 21	Art. 22	Art. 23	Art. 24	Art. 25	Art. 26		Art. 27			Art. 28	Art. 29	Art. 30	Article 31			
							1	2	1	2	3				1	2	3	
Belgium/Belgique																		
Bosnia and Herzegovina/ Bosnie-Herzégovine																		
Bulgaria/Bulgarie																		
Cyprus/Chypre			26															
Estonia/Estonie																		
Finland/Finlande																		
France																		
Georgia/Géorgie																		
Greece/Grèce																		
Hungary/Hongrie																		
Ireland/Irlande										27								
Italy/Italie																		
Latvia/Lettonie																		
Lithuania/Lituanie																		
Malta/Malte																		
Republic of Moldova/ République de Moldova																		
Montenegro/ Monténégro										28								
Netherlands/ Pays-Bas																		
Norway/Norvège										29								
Portugal																		
Romania/Roumanie																		
Russian Federation/ Fédération de Russie																		
Serbia/Serbie																		
Slovak Republic/ République Slovaque																		
Slovenia/Slovénie																		
Sweden/Suède																		
"The former Yugoslav Republic of Macedonia"/ "L'ex-République yougoslave de Macédoine"																		
Turkey/Turquie																		
Ukraine																		

**Acceptance of provisions of the European Social Charter (1961) and of the Additional Protocol (1988)  
Acceptation des dispositions de la Charte sociale européenne (1961) et du Protocole additionnel (1988)**

accepted/ accepté       not accepted/ non accepté

Articles 1-7 Para.	Article 1			Article 2			Article 3			Article 4					Art. 5			Article 6			Article 7																																
	1	2	3	4	1	2	3	4	1	2	3	1	2	3	1	2	3	4	1	2	3	1	2	3	4	1	2	3	4	1	2	3	4	5	6	7	8	9	10														
Croatia/Croatie																																																					
Czech Republic/ République tchèque																																																					
Denmark/Danemark																																																					
Germany/Allemagne																																																					
Iceland/Islande																																																					
Luxembourg																																																					
Poland/Pologne																																																					
Spain/Espagne																																																					
United Kingdom/ oyaume-Uni																																																					

Articles 8-18 Para.	Article 8			Art. 9	Article 10			Article 11			Article 12			Article 13			Art. 14		Art. 15		Art. 16	Art. 17	Article 18					
	1	2	3	4	1	2	3	4	1	2	3	1	2	3	4	1	2	1	2	1	2	3	4	1	2	3	4	
Croatia/Croatie																												
Czech Republic/ République tchèque				30																								
Denmark/Danemark																												
Germany/Allemagne																												
Iceland/Islande																												
Luxembourg																												
Poland/Pologne																												
Spain/Espagne																												
United Kingdom/ Royaume-Uni																												

30. Czech Republic denounced paragraph 4 on 25 March 2008 / La République tchèque a dénoncé l'alinéa 4 le 25 mars 2008

31. Poland denounced paragraph 4 on 27 January 2011 / La Pologne a dénoncé l'alinéa 4 le 27 janvier 2011

32. Spain denounced sub-paragraph b with effect from 5 June 1991 / L'Espagne a dénoncé l'alinéa b de cette disposition à partir du 5 juin 1991

<i>Articles 19 Para.</i>	<i>Article 19</i>									
	1	2	3	4	5	6	7	8	9	10
Croatia/Croatie										
Czech Republic/ République tchèque										
Denmark/Danemark										
Germany/Allemagne										
Iceland/Islande										
Luxembourg										
Poland/Pologne										
Spain/Espagne										
United Kingdom/ Royaume-Uni										

<i>Additional Protocol/ Protocole additionnel Para.</i>	<i>Additional Protocol/ Protocole additionnel</i>			
	Art. 1	Art. 2	Art. 3	Art. 4

## Appendix 10.

### Number of accepted provisions by year since 1962

Year of ratification	CHARTER 1961			REVISED CHARTER 1996			Total of the accepted provisions
	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

Year of ratification	CHARTER 1961			REVISED CHARTER 1996			Total of the accepted provisions
	States	Accepted provisions	Total	States	Accepted provisions	Total	
1972			546				546
1973			546				546
1974	10. France	72	618				618
1975			618				618
1976	11. Iceland	41	659				659
1977			659				659
1978			659				659
1979			659				659
1980	12. Netherlands	75	734				734
	13. Spain	76	810				810
1981			810				810
1982			810				810
1983			810				810
1984	14. Greece	71	881				881
1985			881				881
1986			881				881
1987			881				881
1988	15. Malta	55	936				936
1989	16. Turkey	46	982				982

Year of ratification	CHARTER 1961			REVISED CHARTER 1996				Total of the accepted provisions
	States	Accepted provisions	Total	States	Accepted provisions	Total		
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 Rep.	64	1317			83	1400	
		-72	1245	2. France	98	181	1426	
1999		-76	1169	3. Italy	97	278	1567	
	23. Hungary	44						
	24. Czech Rep.	56	1345	4. Romania	65	343	1688	
		-76	1269	5. Slovenia	95	438	1707	
2000			1269	6. Bulgaria	61	499	1768	
			1269	7. Estonia	79	578	1847	



Year of ratification	CHARTER 1961			REVISED CHARTER 1996			Total of the accepted provisions
	States	Accepted provisions	Total	States	Accepted provisions	Total	
		-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
			990	15. Albania	64	1215	2205
2003	26. Croatia	43	1033				2248
2004			1033	16. Armenia	67	1282	2315
		-72	961	17. Belgium	87	1369	2330
				18. Azerbaijan	47	1416	2377
			961	19. Andorra	75	1491	2452
2005	27. "The former Yugoslav Republic of Macedonia"	41	1002			1491	2493
		-55	947	20. Malta	72	1563	2510
				21. Georgia	63	1626	2573
2006		-75	872	22. Netherlands	97	1723	2595

Year of ratification	CHARTER 1961			REVISED CHARTER 1996			Total of the accepted provisions
	States	Accepted provisions	Total	States	Accepted provisions	Total	
				23 Ukraine	74	1797	2669
2007		-46	826	24 Turkey	91	1888	2714
		-44	782	25. Hungary	60	1948	2730
				Bulgaria	1	1949	2731
2008				26. Bosnia and Herzegovina	51	2000	2782
2009		-64	718	27. Slovak Rep.	86	2086	2804
				28. Serbia	88	2174	2892
				29. Russian Fed.	67	2241	2958
2010				30. Montenegro	66	2307	3025
2011		-62	656	31. Austria	76	2383	3039
				Cyprus	9	2392	3048
				32. "The former Yugoslav Republic of Macedonia"	63	2455	3070
2012		-41	615	Estonia	8	2463	3078
2013		-25	590	33. Latvia	90	2553	3143
2015				Belgium	4	2557	3147
2016		-71	519	34. Greece	95	2652	3171

(\*) By order of ratification, States Parties to the Revised Charter (on a grey background), and States Parties to the 1961 Charter (on a white background).

## Appendix 11.

### Turin Forum on Social Rights in Europe

Turin, 18 March 2016

#### Speech by Giuseppe Palmisano, President of the European Committee of Social Rights – Council of Europe

*Check against delivery*

Thank you. Very briefly, I think that the Forum today is the perfect opportunity for us to move from words and theories to facts, or at least to identify the first steps towards achieving what we have been talking about until now: putting consideration and respect for social rights back at the heart of political and governmental choices, and also the expectations of the people within our communities.

I would therefore like to draw your attention towards some of the proposals that could offer some initial tangible initiatives with a view to making social rights once again the centre of our action through the European Social Charter: these proposals are aimed at using this important instrument which already exists and has great potential more effectively and ensuring that it produces the desired effects.

First and foremost, I address the parliaments and parliamentarians in the light also of yesterday's interesting interparliamentary conference. To them I ask: why not start launching at parliamentary level procedures – where they do not already exist – for assessing the social impact of governmental policies, at long last stipulating the requirement for effective compliance with the Social Charter as one of the fundamental parameters for assessment?

Secondly, I address once again the parliamentarians and governmental authorities of the member states: why not begin to enable – where this is not already possible – the Social Charter to be directly relied on by its real beneficiaries, by those who can best identify the problems associated with the implementation of and respect for social rights, in order to find appropriate solutions? In other words, this means asking: why not promote the acceptance of a procedure which already exists, but which at present is binding on only 15 out of the 43 states that are parties to the Social Charter system? I am talking here about the collective complaints procedure, to which Professor De Schutter so ably referred, which is effectively capable of identifying specific problems and also proposing solutions. I earnestly invite all parliamentarians, and not only people in government, to give thought to this possibility, and to press for the acceptance of the procedure by those states that have not already done so.

Thirdly, and here I address an important category of people, who are probably here with us today: national judges. It is in fact the national judges that act as the principal conduit for ensuring respect for rights. So dear judges, why not start taking greater account of the European Social Charter in your decisions, as a legally binding instrument under national law, in order to guarantee the social rights of individuals to the full? This would truly be the key to translating certain fundamental principles into facts, or rather into legislation, and not leaving them solely as principles.

Lastly, the normative system of the Social Charter is certainly a well-constructed system, which protects social rights more than any other treaty in Europe (or elsewhere in the world); however, it also has its limits. I refer above all to the situation of “foreigners”, migrants and refugees, who have been a matter of much discussion both today and yesterday in the interparliamentary conference. There is no doubt that migratory flows and refugees, along with the recent significant inflows of non-European foreign nationals into Europe, pose problems from the viewpoint of the application of social rights. But consider this: does it make sense that, according to the Social Charter, Italy, France or Germany are obliged – and rightly so – to respect the social rights of people who come from Azerbaijan, Turkey, Portugal, Ireland or Lithuania, in other words from anywhere in Europe, but not for example of the people – and there are many of them – who come from Syria, Tunisia, Bangladesh, Peru, Ecuador, Cameroon, Niger, and so on? Does this make sense? Is it “fair”? Or rather, is it acceptable from the viewpoint of respect for human rights? In my view, absolutely not. There is so much talk of inequality and of eliminating inequality; well, this is an inequality that is currently tolerated by the Social Charter as it does not oblige the states to apply and respect the social rights of people who are nationals of a country that is not a party to the Social Charter.

Today the problem is more critical than ever; it is critical because the number of people arriving in Europe from non-European countries is growing, for many reasons; lawful migrants, economic migrants, environmental migrants, displaced persons, asylum-seekers and refugees. And yet under the Social Charter there is no obligation to guarantee the same rights to these people which by contrast we rightly grant to Europeans. And this is above all an anomaly compared with any other international instrument for protecting human rights. It does not apply to the ECHR, nor to the international covenants adopted by the UN. I therefore earnestly invite you to take into consideration this aspect in order to improve the system of the Social Charter and to bring it into line with the times we are currently living through. This does not necessarily mean engaging in difficult complex procedures (including on a political level) to revise the Social Charter, but could, for example, simply mean that the governments of the States Parties to the Charter, encouraged by their parliaments, will unilaterally agree to broaden the extent of the Social Charter to include categories of persons who are not currently covered.

This would actually be possible, and relatively easy to achieve, and the European Committee of Social Rights proposed just this several years ago on the occasion of the 50th anniversary of the Social Charter. Unfortunately no positive responses have yet been received.

I think that today the need is felt even more keenly than several years ago, and for this reason I appeal to those who truly cherish respect for social rights and the dignity of all people to take action and tangible steps in this direction in order to improve the Social Charter yet further.

Thank you.

## Appendix 12.

### Exchange of views between the President of the European Committee of Social Rights and the Ministers' Deputies

30 March 2016

Introductory speech by Professor Giuseppe Palmisano,  
President of the European Committee of Social Rights (ECSR)

Chair,

Permanent Representatives,

Secretary General,

It is my honour and pleasure to address you for the second time on behalf of the European Committee of Social Rights. Exchanging views with the Committee of Ministers is of the utmost importance for my Committee and I wish to express my gratitude to you for giving me this opportunity again.

Let me start my speech by saying that the last 12 months have been a period of changes and innovations in the activity of the European Committee of Social Rights.

In fact, in 2015 we started to put into practice the changes to the reporting system that have been adopted by the Committee of Ministers on April 2014, with the main objective of simplifying the mechanism for those States Parties to the Charter that have accepted the collective complaints procedure. Following such changes, the system comprises now two new types of reports, in addition to the "ordinary" – traditional, I would say – reports on a thematic group of Charter provisions.

I refer, first, to the new reports on follow-up to collective complaints for States bound by the collective complaints procedure, which – as you know – do not have to submit in the same year the "ordinary" report on the thematic group of provisions under consideration. This means that, in the past year, 8 States were exempted from reporting on Charter provisions, and instead submitted a report on follow-up to complaints. Those States were, namely, France, Greece, Portugal, Italy, Belgium, Bulgaria, Ireland, Finland. The same is happening in the present year to other 7 States parties to the Charter, that are Croatia, Sweden, the Netherlands, Cyprus, Czech Republic, Norway and Slovenia. This also means that, last year, the Committee examined for the first time reports on the follow-up to a total of 125 violations arising from 40 different past decisions on collective complaints against different States, concerning a wide variety of Charter rights.

With respect to such a change in the reporting procedure, let me say that my impression, after the first year of implementation, is not entirely positive, at least in so far as the objective of simplification for States bound by the collective complaints procedure is concerned. This is true in particular for those States, like France or Greece, that are concerned by a high number of complaints' decisions. For such States there has not been a substantial reduction of the reporting burden. The Committee of Ministers could therefore take into account the possibility to continue working on the reform of the reporting system, so as to render it even more simplified for those States that are bound by the collective complaints procedure.

Further simplification would have, in my humble view, a double merit. First, it would create a more fairly balanced burden of response to the requests of the monitoring mechanisms between States accepting and States not accepting collective complaints; and – second – it would encourage the latter States to accept the collective complaints procedure. And this would be clearly in accordance with the spirit of the political Declaration that you adopted in October 2011 on the occasion of the 50th anniversary of the Social Charter.

The second new type of reports examined in 2015 are related to the conclusions of non-conformity for repeated lack of information adopted by the Committee the preceding year. With respect to this kind of reporting, I recall that all States parties to the Charter, including those having accepted the collective complaints procedure, may be required to submit a report. Let me say that this change or better addition to the reporting procedure has indeed proved to be very useful. States parties provided in fact further and more precise information on their respective national situations, and this led the Committee to timely reverse a significant number of 2013 conclusions, pertaining to health, social security and social protection, from a finding of non-conformity to a finding of conformity. In particular, in light of the additional reports submitted by the States, in 20 cases the Committee was able to conclude that the situation had been brought into conformity.

Coming to the “ordinary” or traditional reporting procedure, in 2015 the Committee examined national reports on the provisions of the Charter belonging to the thematic group “Children, families and migrants”, focusing on such crucial issues as the right of children, young persons and mothers to protection, the right of the family to social, legal and economic protection, the right to housing, the right of migrant workers and their families to protection and assistance.

Despite the difficult context, notably economic but also political, from which social rights have suffered in recent years, I am happy to say that the Committee’s conclusions reflect certain positive developments that have taken place during the period under consideration. For example, the Committee generally found that the right of workers with family responsibilities to equal opportunity and treatment was satisfactorily guaranteed in most countries; and the legal and social protection of families was also evaluated positively. Furthermore, significant progress has been made in protecting children against ill-treatment; in particular, the number of countries prohibiting all forms of corporal punishment of children is positively increasing.

There still are, of course, several generalised problems in the application of the Charter that affect many States Parties, while varying in scope and severity and impacting on them differently.

I wish just to draw your attention on two recurrent problems that the Committee was able to identify. One such problem concerns remuneration and treatment of young workers and apprentices. In this respect, let me say that while the Committee is aware that facilitating integration of young people in the labour market is of crucial importance at a time when youth unemployment rates are alarmingly high in many European countries, our conclusions of non-conformity should sound as a warning to States not to abandon, however, principles of fairness and to not allow exploitation of young workers and apprentices.

Another problematic issue is that of the rights and treatment of migrant workers, which has been accentuated further by restrictive measures taken in many countries in the face of the migratory movements of recent years. In particular, discrimination of foreigners in the allocation of family benefits is a widespread problem, together with inadequate respect for the right to family reunion, with many countries imposing excessive conditions for the exercise of this right, such as length of residence requirements, onerous language and integration tests, excessive means requirements, and so on.

Moving now to the other principal monitoring mechanism – the collective complaints procedure –, I recall that from the beginning of 2015 up to now, 6 new complaints were lodged and the Committee adopted 7 decisions on the merits and 11 decisions on admissibility. Some decisions adopted by the Committee concerned indeed sensitive issues, such as the prohibition of corporal punishment of children, social protection and non-discrimination of Travellers in Ireland, the protection of the right to health with respect to the access to termination of pregnancy procedures, as well as the rights of objecting and non-objecting medical practitioners involved in such procedures.

But with respect to this quasi-judicial procedure, I would like to highlight, more than recent outcomes of our case-law, some positive developments in terms of constructive dialogue with the authorities of the States involved, with a view both to improving the functioning of the procedure, and to making it more apt to produce a correct assessment of the national situations under examinations. I refer first of all to the fact that in June 2015 the Committee of Social Rights organized a working meeting between the agents of the Governments before the Committee and the Bureau of the Committee, on some problems and practical issues relating to the collective complaints procedure. But I refer also to the fact that within the framework of a specific complaint, the Committee, following a request by the respondent Government, decided to hold a public hearing, which took place on September 2015. And it is worth stressing that the last time the Committee held a public hearing was more than five years ago.

This last remark leads me straight to the second part of my intervention, which focuses very briefly on some improvements made to the practices and tools of the Committee, with a view precisely to put into place a more constructive dialogue with States parties to the Charter and also to respond faster and better to the most crucial problems concerning respect for social rights in Europe.

In this regard I wish to start by recalling that over the past year we have organized not only a meeting with the agents of the Governments before the Committee, but also, on January 2016, a fruitful meeting between the Bureau of the Governmental Committee and the Bureau of the Committee of Social Rights, to discuss together how to better deal with the reporting procedure after the changes adopted in 2014, as well as to improve the dialogue between the two Committees on possible problems arising from our conclusions on the national reports.

I would add that, within the framework of our regular sessions, the Committee also started having bilateral exchanges of views with governmental representatives of the States parties, so as to identify and clarify the most relevant problems concerning

the implementation of specific provisions of the Charter in national law and practice, as well as the drafting of the reports to be submitted to the Committee. We had the first of such meetings in May 2015 with representatives of Poland, and another meeting will take place in the next future – I hope – with representatives of Spain.

Furthermore, in dealing with the thematic group of provisions under consideration in 2015, the Committee made an intense effort to clarify its case-law on certain critical issues, and to apply the Charter as an instrument to be constantly and realistically adapted both to the needs of individuals and groups in a changing society, on the one side, and to economic or other difficulties that States are actually facing, on the other. The number of statements of interpretation adopted by the Committee – 10 in total – is testimony of this. We adopted statements, inter alia, on the notion of light work for children, on the rights of posted workers, on housing requirements in the context of family reunion, on expulsions in case of threat to national security or offence against public interest, and on remuneration during parental leave. And with a view to respond to a dramatic emergency situation, a special statement of interpretation has been adopted on the rights of refugees under the Charter. Considering the urgency and gravity of the refugee crisis in Europe, this statement has been immediately published on the website of the Council of Europe (in October 2015), without waiting for the publication of the annual Activity Report of the Committee.

Lastly, with respect to the information tools at the disposal of the Committee to improve the impact of the European Social Charter system, let me draw your attention to the realization of the new website of the European Social Charter. I wish to thank very sincerely for this the Secretariat of the Social Charter, which in a few months' time succeeded in creating a communication tool apt to provide, much more than it was in the past, a clear message on the legal nature of the Charter, the decisions of the Committee, and the importance of the monitoring system for the effectiveness of social rights in Europe.

To conclude my intervention, I would like to dwell on the achievements and positive prospects of the so-called "Turin process" and more in general on the progressive evolution of the normative system of the Charter.

You know well that in 2014 the Secretary General, when presenting the strategic vision and agenda for his second term, included reinforcement of the European Social Charter as one of the imperatives for increased relevance and efficiency of the Council of Europe; and shortly afterwards, in October 2014, on the occasion of a High-Level Conference in Turin, he launched the Turin process, aimed precisely at re-situating the Charter at the centre of the European human rights architecture, improving the synergy between the Charter and EU law, as well as the implementation of the Charter at national level, especially in times of economic crisis and austerity measures.

This process significantly progressed and gained impetus in the last year.

I refer first of all to the increased consideration given by some States to the Charter as an effective instrument to protect social rights. I wish in particular to highlight that in June 2015, shortly after the organization of the Brussels Conference on the future of social rights in Europe, Belgium accepted to be bound by 4 additional



provisions of the Revised Charter. And – what is even more significant – on January 2016, the Hellenic Parliament approved the Ratification Act of the Revised European Social Charter. Let me express my satisfaction at these important developments. I think that we all should pay tribute to Belgium and Greece for their commitment to social rights, and in particular to the example they have set by assuming greater responsibility for the safeguard of these rights in times of economic crisis.

But I refer also to the attention of the Parliamentary Assembly of the Council of Europe towards the European Social Charter. As you know, after the approval by the Bureau of the Assembly of a motion for a report on the “Turin process”, which was tabled in 2015 by Mr Michele NICOLETTI, Vice-President of the Parliamentary Assembly, the Committee on Social Affairs, Health and Sustainable Development of the Assembly, last January, appointed Ms Sílvia Eloisa BONET (Andorra, SOC) as special Rapporteur on the “Turin process” for the European Social Charter.

The renewed interest in the Charter at the level of Parliaments and Parliamentarians is also demonstrated by the very recent and successful Inter-parliamentary Conference, which was organized by the Italian Chamber of Deputies, the City of Turin and the Council of Europe, and took place in Turin few days ago, on the 17<sup>th</sup> of March.

More than one hundred parliamentarians coming from 25 States participated at the Conference. Among them, the President of the Russian Duma, the Speaker of the House of Representatives of Malta, the Vice-President of the Hungarian Parliament, the Vice-President of the Turkish Parliament, the two Chairpersons of the Committee on Social Affairs and the Committee on Employment of the Italian Chamber of Deputies.

The Conference was followed, the day after, by a public Forum on social rights in Europe, with two keynote speeches, respectively by Professor Jean-Paul Fitoussi and Professor Olivier de Schutter. At the Forum attended also Ambassador Bellatti-Ceccoli, as President of the GR-H, and Ambassador Hobdary, as President of the GR-Soc. At the end of the meeting, the Minister of Labour of the Hellenic Republic, Mr Katrougalos, officially deposited with Deputy-Secretary, Madam Battaini Dragoni, the instrument of ratification of the Revised Charter by Greece.

The Turin II Conference provided indeed an eminent setting for the competent parliamentary representatives to discuss the question of implementation and consideration of the rights guaranteed by the Charter at national level in the current international context. The Conference focused also on the processes of ratifying the revised version of the Charter and the protocol on the collective complaints, as well as on the need to promote more cohesive and inclusive societies in Europe, having regard to the risks to democratic security of societies in which these rights are not fully and widely guaranteed.

I am really confident that this Conference will have a positive impact not only on the processes of ratifying the revised version of the Charter and the protocol on the collective complaints, but also on the consideration of the Charter’s provisions in the context both of the national legislative processes and of the political functions carried out by Parliaments at the national level.

The call for more attention to social rights and a more social Europe, launched by the Council of Europe’s “Turin process”, is receiving a positive feedback also from

the European Union. I refer mainly to the initiative to develop a “European pillar of social rights”, which has been announced in President Juncker’s State of the Union address in September 2015, and is foreseen in the Commission Work Programme for 2016. The Pillar is expected to be a self-standing reference document, of a legal nature, setting out key principles and values shared at EU level. As you probably know, last January President Juncker appointed Mr Allan Larsson as Special Adviser for the European Pillar of Social Rights; and we really hope that the drafting of such a document – as it has been announced by the EU Commission representative during the Forum in Turin – can be an occasion for the EU to improve further its dialogue and synergy with the Council of Europe on social rights’ issues, with a view also to achieve a better consideration of the Social Charter by EU institutions in the process of adopting EU legislative acts and policy measures.

I am glad to add that, in the meanwhile, dialogue between my Committee and the Court of Justice of EU, on the specific topic of the relationship between EU law and the Social Charter, is going on fruitfully, and in next October the President of the Court, Judge Koen Lenaerts, will come in Strasbourg, during our session, for an exchange of views with the Committee. And I wish also to mention that our Committee actively participates at the “Collaborative platform on social and economic rights”. This is a joint initiative of the Council of Europe, the Fundamental Rights Agency of the European Union (FRA), the European Network of National Human Rights Institutions (ENNHRI) and the European Network of Equality Bodies (EQUINET), which is aimed at jointly elaborating action plans on how to further economic and social rights in Europe. The platform was launched here in Strasbourg, the 15 October 2015, by the Director of Human Rights, Mr Christos Giakoumopoulos.

Last but not least, of course, let me express my gratitude to you for contributing to strength the Social Charter system within the Council of Europe. I refer in particular to the fact that, in deciding the Budget 2016/2017 you decided to start reinforcing the staff of the services assisting the Committee of Social Rights in terms of their number and qualification. In that respect, I cannot but insist that in order to improve our monitoring activity, which covers many sensitive legal and political issues and include a number of different complex procedures, it is really crucial to allocate more resources to the Charter and mainly to increase further the number and specialization of the Secretariat staff. And as I already pointed out last year, a slight increase in the number of members of the Committee would also be very important, in order both to ensure a better overall balance, within the Committee, of the different legal traditions and social models in Europe, and to cope with our increasing workload. This would also provide a much-needed opportunity for a revision of the distribution of States in the groups for the election process.

Chairman, Ladies and Gentleman, as you know the 3<sup>rd</sup> of May 2016 is the 20<sup>th</sup> Anniversary of the Revised Social Charter. Let me express the hope that celebrating such a significant anniversary will also mean for all of us moving a concrete step forward to a more social Europe, and to more Social Charter in Europe. Therefore, looking forward to your reactions and views to the few thoughts I have just shared with you, let me conclude by saying that this anniversary can indeed be a good opportunity for you to reaffirm, as you already did with the Declaration on the 50<sup>th</sup> anniversary of the Charter, the paramount role of the Charter in guaranteeing and

promoting social rights on our continent, as well as to call on those States not having done so to consider ratifying the Revised Charter and accepting the system of collective complaints.

All those who are concerned with the future of the protection of social rights in Europe will be deeply grateful to the Committee of Ministers if you will be capable of seizing, once again, such an opportunity.

Thank you.

## Appendix 13.

### Selection of 2016 conclusions of non-conformity for the attention of the Parliamentary Assembly

In the framework of the Turin process of the European Social Charter, and the High Level Conference that led to its launch (Turin, Italy, 17 - 18 October 2014), action by the Parliamentary Assembly of the Council of Europe and national parliaments of the Member States was considered essential to the promotion and effective implementation of this Treaty guaranteeing social and economic rights.

One of the main conclusions of the meeting held in Strasbourg on 6 October 2011 under the auspices of the Committee on Social Affairs, Health and Sustainable Development on “non-discrimination and equal opportunities in the enjoyment of social rights”, in the context of the 50th anniversary of the European Social Charter, was that the cooperation between the European Committee of Social Rights and the relevant committees of the Parliamentary Assembly should be strengthened.

In this respect, it was suggested that one of the means of reinforcing the cooperation could consist in having the European Committee of Social Rights “directly transmit to the Parliamentary Assembly the decisions and conclusions of non-conformity whose effective follow-up and implementation required governments and national parliaments to take appropriate measures”. In this way, taking into account their two-fold mandate, European and national, the members of the Assembly would be able to contribute decisively to the implementation of the conclusions of non-conformity adopted by the Committee.

From this point of view, the outcome of the meeting of 6 October 2011 was that a selection of conclusions of non-conformity by the Committee where normative action at national level is necessary would be submitted. Moreover, one of the main conclusions of the exchange of views between the PACE Sub-Committee on the European Social Charter and the Committee held in Paris October 18, 2013 (on the occasion of the parliamentary seminar “Improving the conditions of young workers”) was to strengthen the follow up to the decisions and conclusions of non-conformity adopted by the Committee, at national level, through other measures that are part of the essential functions of Parliamentarians (that is to say, budgetary functions as well as functions of political control). Thus, the selection below distinguishes, country by country, based on the possibilities of follow up through either normative action or other parliamentary measures.

The present contribution has been drawn up in the spirit of Resolution 1824(2011) on “The role of parliaments in the consolidation and development of social rights in Europe” (adopted by the Assembly on 23 June 2011) as well as of the Declaration of the Committee of Ministers on the 50th Anniversary of the European Social Charter (adopted by the Committee of Ministers on 12 October 2011 during the 1123rd meeting of the Ministers’ Deputies). In this respect the members of the Parliamentary Assembly have, due to the two-fold nature of their mandate, European and national, a privileged position and a major responsibility in furthering acceptance of the collective complaints procedure and ratification of the Revised European Social Charter in their respective countries.

The European Committee of Social Rights is delighted to be part of this form of cooperation and it wishes to thank the Parliamentary Assembly for developing its vital role in highlighting the importance for States of accepting the collective complaints procedure as well as the Revised Charter thereby strengthening the social aspects of democracy and the guarantee of social rights at national level.

In this regard, it should be stressed that the strengthening of this co-operation and the role of the Assembly is also notably illustrated in the context of its activities, and in particular of the Committee on Social Affairs, Health and Sustainable Development, which appointed the First Vice-President of the Commission “Rapporteur on the Turin Process”.

Herewith follows a selection of conclusions of non-conformity 2016 in respect of which measures (either normative or legislative, or of a budgetary character or political control) are necessary in order to render effective the application of the Charter at national level.

The entire set of conclusions of the European Committee of Social Rights can be found on the European Social Charter website: [www.coe.int/socialcharter](http://www.coe.int/socialcharter)

## Andorra

### ■ **Article 10§5 - Right to vocational training - Full use of facilities available**

The Committee concludes that the situation in Andorra is not in conformity with Article 10§5 of the Charter on the ground that the law establishes a length of residence requirement of three years for students to apply for financial aid.

## Armenia

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

The Committee concludes that the situation in Armenia is not in conformity with Article 1§2 of the Charter on the grounds that:

- ▶ indirect discrimination is not defined and prohibited by the legislation;
- ▶ discrimination is not prohibited in connection with recruitment in employment;
- ▶ there is no protection against discrimination in employment on grounds of sexual orientation;
- ▶ the upper limit on the amount of compensation that may be awarded in discrimination cases may preclude damages from making good the loss suffered and from being sufficiently dissuasive;
- ▶ the duration of alternative civil service amounts to an excessive restriction of the right to earn one’s living in an occupation freely entered upon.

### ■ **Article 15§3 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community**

The Committee concludes that the situation in Armenia is not in conformity with Article 15§3 of the Charter on the ground that during the reference period, there was

no anti-discrimination legislation to protect persons with disabilities and explicitly covering the fields of housing, transport, communications and cultural and leisure activities.

■ **Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex**

The Committee concludes that the situation in Armenia is not in conformity with Article 20 of the Charter on the following grounds:

- ▶ the limits imposed on compensatory awards in gender discrimination cases may prevent such violations from being adequately remedied and effectively prevented;

■ **Article 24 - Right to protection in case of dismissal**

The Committee concludes that the situation in Armenia is not in conformity with Article 24 of the Charter on the ground that the termination of employment at the initiative of the employer on the sole ground that the person has reached the pensionable age, which is permitted by law, is not justified.

## Austria

■ **Article 10§5 - Right to vocational training - Full use of facilities available**

The Committee concludes that the situation in Austria is not in conformity with Article 10§5 of the Charter on the ground that non-EEA nationals are subject to a length of residence requirement of five years to be eligible for financial assistance for training.

■ **Article 15§1 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Vocational training for persons with disabilities**

The Committee concludes that the situation in Austria is not in conformity with Article 15§1 of the revised Charter on the ground that the right of persons with disabilities to mainstream education is not effectively guaranteed.

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

The Committee concludes that the situation in Austria is not in conformity with Article 4§1 of the Charter on the ground that the lowest wages paid are too low to ensure a decent standard of living for all workers.

## Azerbaijan

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

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 1§2 of the Charter on the grounds that:

- ▶ legislation does not provide for a shift in the burden of proof in discrimination cases;
- ▶ nationals of the other States Parties to the Charter do not have access to civil service posts.

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

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 1§3 of the Charter on the ground that the public employment services do not operate in an efficient manner.

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

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 1§4 of the Charter on the ground that there is no legislation explicitly protecting persons with disabilities from discrimination in training.

### ■ **Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex**

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 20 of the Charter on the following grounds:

- ▶ legislation does not provide for a shift in the burden of proof in gender discrimination cases;
- ▶ women are not permitted to work in all professions which constitutes discrimination based on sex.

## Belgium

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

The Committee concludes that the situation in Belgium is not in conformity with Article 1§2 of the Charter on the ground that the restrictions on the access of foreign nationals, other than EEA, to civil service posts are excessive which constitutes a discrimination on grounds of nationality.

### ■ **Article 10§5 - Right to vocational training - Full use of facilities available**

The Committee concludes that the situation in Belgium is not in conformity with Article 10§5 of the Charter on the ground that the non-EEA nationals are subject to a length of residence requirement of two years to be eligible for financial aid for education.

### ■ **Article 15§1 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Vocational training for persons with disabilities**

The Committee concludes that the situation in Belgium is not in conformity with Article 15§1 of the Charter on the ground that the right of persons with disabilities to mainstream education is not effectively guaranteed.

### ■ **Article 15§3 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community**

The Committee concludes that the situation in Belgium is not in conformity with Article 15§3 of the Charter on the ground that the Brussels-Capital Region does not have legislation prohibiting discrimination in all the areas covered by Article 15§3 of the Charter.

### **Article 18§3 - Right to engage in a gainful occupation in the territory of other States Parties - Liberalising regulations**

The Committee concludes that the situation in Belgium is not in conformity with Article 18§3 of the Charter on the ground that early termination of the employment relationship of a foreign national results in the automatic withdrawal of that person's residence permit with no possibility of seeking new employment.

## **Bosnia and Herzegovina**

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

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 1§1 of the Charter on the ground that employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

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

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 1§2 of the Charter on the ground that the federal legislation does not prohibit discrimination in employment on grounds of age and disability.

### **Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex**

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 20 of the Charter on the following grounds:

- ▶ women are not permitted to work in all professions which constitutes discrimination based on sex;
- ▶ the right to equal opportunities in employment without discrimination on grounds of sex is not guaranteed in practice.

## **Bulgaria**

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

The Committee concludes that the situation in Bulgaria is not in conformity with Article 1§2 of the Charter on the ground that the restrictions on the access of foreign nationals of States Parties to the European Social Charter, other than EEA, to civil service posts are excessive and therefore constitute a discrimination on grounds of nationality.

### **Article 24 - Right to protection in case of dismissal**

The Committee concludes that the situation in Bulgaria is not in conformity with Article 24 of the Charter on the grounds that employees undergoing a probationary period of 6 months are not protected against dismissal.



## Denmark

### ■ **Article 10§4 - Right to vocational training - Encouragement for the full utilisation of available facilities**

The Committee concludes that the situation in Denmark is not in conformity with Article 10§4 of the 1961 Charter on the ground that non-EEA nationals are subject to a length of residence requirement of two years to be eligible for the State Educational Grant and Loan Scheme (SU).

## Estonia

### ■ **Article 15§3 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community**

The Committee concludes that the situation in Estonia is not in conformity with Article 15§3 of the Charter on the ground that there is no anti-discrimination legislation for persons with disabilities which specifically covers the areas of housing, transport, communications, culture and leisure.

## Finland

### ■ **Article 10§5 - Right to vocational training - Full use of facilities available**

The Committee concludes that the situation in Finland is not in conformity with Article 10§5 of the Charter on the ground that non-EEA nationals must have resided for two years in order to have access to student financial aid.

### ■ **Article 24 - Right to protection in case of dismissal**

The Committee concludes that the situation in Finland is not in conformity with Article 24 of the Charter on the grounds that:

- ▶ with the exception of civil servants, the legislation does not provide the possibility of reinstatement in case of unlawful dismissal;
- ▶ the upper limit on compensation for unlawful dismissal may not be adequate to cover the loss suffered, in certain circumstances.

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

The Committee concludes that the situation in Finland is not in conformity with Article 28 of the Charter on the grounds that legislation makes no provision for the reinstatement of worker representatives unlawfully dismissed.

## France

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

The Committee concludes that the situation in France is not in conformity with Article 1§2 of the Charter on the ground that the restrictions on access to the profession of advocate imposed on non-EEA nationals are excessive, which constitutes discrimination based on nationality.

### **Article 10§5 - Right to vocational training - Full use of facilities available**

The Committee concludes that the situation in France is not in conformity with Article 10§5 of the Charter on the ground that there is a length of residence requirement of two years for non-EEA nationals to qualify for scholarships granted on the basis of social criteria.

### **Article 15§3 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community**

The Committee concludes that the situation in France is not in conformity with Article 15§3 of the Charter on the ground that persons with disabilities are not guaranteed effective access to transport.

## **Georgia**

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

The Committee concludes that the situation in Georgia is not in conformity with Article 1§1 of the Charter on the ground that employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

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

The Committee concludes that the situation in Georgia is not in conformity with Article 1§3 of the Charter on the ground that the public employment services do not operate in an efficient manner.

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

The Committee concludes that the situation in Georgia is not in conformity with Article 1§4 of the Charter on the ground that continuing vocational training for workers is not guaranteed.

### **Article 10§4 - Right to vocational training - Long term unemployed persons**

The Committee concludes that the situation in Georgia is not in conformity with Article 10§4 of the Charter on the ground that special measures for the retraining and reintegration of the long-term unemployed have not been effectively provided or promoted.

### **Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex**

The Committee concludes that the situation in Georgia is not in conformity with Article 20 of the Charter on the ground that there is no explicit statutory guarantee of equal pay for work of equal value.

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

The Committee concludes that the situation in Georgia is not in conformity with Article 2§2 of the Charter on the ground that Georgian law does not ensure that work performed during public holidays is adequately compensated.

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

The Committee concludes that the situation in Georgia is not in conformity with Article 2§5 of the Charter on the ground that the right to a weekly rest period is not adequately guaranteed in the whole labour market.

## **Greece**

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

The Committee concludes that the situation in Greece is not in conformity with Article 1§1 of the 1961 Charter on the ground that employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

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

The Committee concludes that the situation in Greece is not in conformity with Article 1§2 of the 1961 Charter on the ground that restrictions on employing nationals of non-EU countries to posts in the public service are excessive which constitutes a discrimination on grounds of nationality.

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

The Committee concludes that the situation in Greece is not in conformity with Article 15§2 of the 1961 Charter on the ground that persons with disabilities are not guaranteed effective access to the open labour market.

## **Iceland**

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

The Committee concludes that the situation in Iceland is not in conformity with Article 1§2 of the 1961 Charter on the ground that that the legislation prohibiting discrimination in employment on grounds other than sex is inadequate.

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

The Committee concludes that the situation in Iceland is not in conformity with Article 1§4 of the 1961 Charter on the ground that there is no legislation explicitly prohibiting discrimination in training on the ground of disability.

### **Article 15§1 - Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement - Education and training for persons with disabilities**

The Committee concludes that the situation in Iceland is not in conformity with Article 15§1 of the 1961 Charter on the ground that there is no legislation explicitly prohibiting discrimination in education and training on the ground of disability.

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

The Committee concludes that the situation in Iceland is not in conformity with Article 15§2 of the 1961 Charter on the ground that there is no legislation explicitly prohibiting discrimination in employment on the ground of disability.

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

The Committee concludes that the situation in Iceland is not in conformity with Article 18§2 of the 1961 Charter on the ground that the formalities for issuing work and residence permits have not been simplified.

## Ireland

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

The Committee concludes that the situation in Ireland is not in conformity with Article 1§2 of the Charter on the grounds that:

- ▶ the upper limits on the amount of compensation that may be awarded in discrimination cases (with the exception of gender discrimination cases) may in certain situations preclude damages from making good the loss suffered and from being sufficiently dissuasive;
- ▶ army officers cannot seek early termination of their commission unless they repay to the state at least part of the cost of their education and training, and the decision to grant early retirement is left to the discretion of the Minister of Defence, which could lead to a period of service which would be too long to be regarded as compatible with the freedom to choose and leave an occupation.

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

The Committee concludes that the situation in Ireland is not in conformity with Article 18§2 of the Charter on the ground that the fees to obtain work permits are excessive.

**■ Article 24 - Right to protection in case of dismissal**

The Committee concludes that the situation in Ireland is not in conformity with Article 24 of the Charter on the ground that employees undergoing probation or training for one year or apprentices during the first six months are excluded from protection against termination of employment, which is not reasonably justified.

## Italy

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

The Committee concludes that the situation in Italy is not in conformity with Article 1§1 of the Charter on the ground that the employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

■ **Article 18§3 - Right to engage in a gainful occupation in the territory of other States Parties - Liberalising regulations**

The Committee concludes that the situation in Italy is not in conformity with Article 18§3 of the Charter on the ground that the regulations governing access to the labour market by foreign workers who are nationals of non-EEA States Parties to the Charter are too restrictive.

■ **Article 24 - Right to protection in case of dismissal**

The Committee concludes that the situation in Italy is not in conformity with Article 24 of the Charter on the ground that employees undergoing a probational period of 6 months are not protected against dismissal.

■ **Article 2§4 - Right to just conditions of work - Elimination of risks in dangerous or unhealthy occupations**

The Committee concludes that the situation in Italy is not in conformity with Article 2§4 of the Charter on the ground that the right of workers exposed to residual occupational health risks to appropriate compensatory measures is not adequately guaranteed.

## Latvia

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

The Committee concludes that the situation in Latvia is not in conformity with Article 1§2 of the Charter on the ground that the restrictions imposed on non-EEA nationals to become advocates are excessive, which constitute a discrimination on grounds of nationality.

## Malta

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

The Committee concludes that the situation in Malta is not in conformity with Article 2§1 of the Charter on the ground that the law does not guarantee the right to reasonable weekly working hours.

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

The Committee concludes that the situation in Malta is not in conformity with Article 2§2 of the Charter on the ground that work performed on a public holiday is not adequately compensated for all workers.

■ **Article 6§3 - Right to bargain collectively - Conciliation and arbitration**

The Committee concludes that the situation in Malta is not in conformity with Article 6§3 of the Charter on the grounds that decisions of the Court of Inquiry are binding on the parties even without their prior consent.

■ **Article 24 - Right to protection in case of dismissal**

The Committee concludes that the situation in Malta is not in conformity with Article 24 of the Charter on the grounds that:

- ▶ employees undergoing a probation period of six months are not protected against dismissal;
- ▶ termination of employment at the initiative of the employer on the sole ground that the person has reached the pensionable age, which is permitted by law, is not reasonably justified.

## Republic of Moldova

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

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 1§1 of the Charter on the ground that employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

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

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 1§2 of the Charter on the ground that restrictions to the employment of nationals of other States Parties in the civil service are excessive which constitutes a discrimination on grounds of nationality.

### ■ **Article 18§3 - Right to engage in a gainful occupation in the territory of other States Parties - Liberalising regulations**

The Committee concludes that the situation in Moldova is not in conformity with Article 18§3 of the Charter on the ground that termination of the employment contracts of foreign workers leads to cancellation of their temporary residence permits, thus obliging them to leave the country as soon as possible.

### ■ **Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex**

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 20 of the Charter on the ground that not all professions are open to women, which constitutes discrimination based on sex.

## Montenegro

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

The Committee concludes that the situation in Montenegro is not in conformity with Article 1§2 of the Charter on the ground that nationals of the other States Parties do not have access to certain jobs, which constitutes a discrimination on grounds of nationality.

### ■ **Article 10§1 - Right to vocational training - Technical and vocational training; access to higher technical and university education**

The Committee concludes that the situation in Montenegro is not in conformity with Article 10§1 of the Charter on the ground that the right to vocational education is not effectively guaranteed in practice.

#### ■ **Article 10§4 - Right to vocational training - Long term unemployed persons**

The Committee concludes that the situation in Montenegro is not in conformity with Article 10§4 of the Charter on the ground that special measures for the retraining and reintegration of the long-term unemployed have not been effectively provided or promoted.

#### ■ **Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex**

The Committee concludes that the situation in Montenegro is not in conformity with Article 20 of the Charter on the ground that legislation prohibits women from performing certain occupations, which constitutes a discrimination based on sex.

### Norway

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

The Committee concludes that the situation in Norway is not in conformity with the Charter on the grounds that there is no specific protection afforded to worker representatives for a period after the end of their mandate.

### Portugal

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

The Committee concludes that the situation in Portugal is not in conformity with Article 1§1 of the Charter on the ground that the employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

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

The Committee concludes that the situation in Portugal is not in conformity with Article 1§2 of the Charter on the ground that the Merchant Navy Criminal and Disciplinary Code provides for prison sentences against seafarers who abandon their posts even when the safety of the ship or the lives or health of the people on board are not at stake.

### Romania

#### ■ **Article 15§1 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Vocational training for persons with disabilities**

The Committee concludes that the situation in Romania is not in conformity with Article 15§1 of the Charter on the ground that the right of persons with disabilities to mainstream education is not effectively guaranteed.

#### ■ **Article 15§2 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Employment of persons with disabilities**

The Committee concludes that the situation in Romania is not in conformity with Article 15§2 of the Charter on the ground that persons with disabilities are not guaranteed effective access to the open labour market.

## Russian Federation

### ■ **Article 152 - Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)**

The Committee concludes that the situation in Russian Federation is not in conformity with Article 152 of the Charter on the grounds that:

- ▶ indirect discrimination is not expressly prohibited by law;
- ▶ the legislation does not provide for a shift in the burden of proof in discrimination cases;
- ▶ discrimination on grounds of sexual orientation in employment is not expressly prohibited by law;
- ▶ foreign nationals cannot be employed in the municipal and state service, which constitutes a discrimination on grounds of nationality.

### ■ **Article 18§4 - Right to engage in a gainful occupation in the territory of other States Parties - Right of nationals to leave the country**

The Committee concludes that the situation in the Russian Federation is not in conformity with Article 18§4 of the Charter on the ground that there are still restrictions on the right of Russian citizens to leave the country.

### ■ **Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex**

The Committee concludes that the situation in the Russian Federation is not in conformity with Article 20 of the Charter on the following grounds:

- ▶ women are not permitted to work in all professions which constitutes discrimination based on sex;
- ▶ the legislation does not provide for a shift in the burden of proof in cases of discrimination based on sex.

## Serbia

### ■ **Article 15§2 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Employment of persons with disabilities**

The Committee concludes that the situation in Serbia is not in conformity with Article 15§2 of the Charter on the ground that persons with disabilities are not guaranteed effective access to the open labour market.

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

The Committee concludes that the situation in Serbia is not in conformity with Article 18§2 of the Charter on the ground that formalities to obtain the residence and work permits have not been simplified.



## Slovak Republic

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

The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 1§3 of the Charter on the ground that the public employment services do not operate in an efficient manner.

### ■ **Article 10§2 - Right to vocational training - Apprenticeship**

The Committee concludes that the situation in Slovak Republic is not in conformity with Article 10§2 of the Charter on the ground that during the reference period there was no well-functioning system of apprenticeships.

## Spain

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

The Committee concludes that the situation in Spain is not in conformity with Article 1§1 of the 1961 Charter on the ground that employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

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

The Committee concludes that the situation in Spain is not in conformity with Article 1§2 of the 1961 Charter on the ground that the restrictions on the employment to the public service of States Parties to the Charter are excessive which constitutes a discrimination on grounds of nationality.

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

The Committee concludes that the situation in Spain is not in conformity with Article 1§3 of the 1961 Charter on the ground that the measures taken during the reference period did not make it possible for public employment services to function in an effective manner.

## “The former Yugoslav Republic of Macedonia”

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

The Committee concludes that the situation in “The former Yugoslav Republic of Macedonia” is not in conformity with Article 1§1 of the Charter on the ground that the employment policy efforts have not been adequate in combatting unemployment and promoting job creation.

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

The Committee concludes that the situation in “The former Yugoslav Republic of Macedonia” is not in conformity with Article 1§2 of the Charter on the ground that restrictions on employing foreign nationals of other States Parties to the Charter in the public service are excessive, which constitutes a discrimination based on nationality.

## Turkey

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

The Committee concludes that the situation in Turkey is not in conformity with Article 1§2 of the Charter on the grounds that:

- ▶ there is insufficient protection against discrimination in employment, in particular on grounds of sexual orientation;
- ▶ the upper limits on the amount of compensation that may be awarded in discrimination cases may preclude damages from making good the loss suffered and from being sufficiently dissuasive;
- ▶ the restrictions on access of nationals of other States Parties to several categories of employment are excessive which constitute a discrimination on grounds of nationality;
- ▶ the Martial Law No.1402/1971 does not adequately protect local government officials and employees.

### **Article 18§3 - Right to engage in a gainful occupation in the territory of other States Parties - Liberalising regulations**

The Committee concludes that the situation in Turkey is not in conformity with Article 18§3 of the Charter on the grounds that:

- ▶ regulations governing access to self-employment of foreign workers have not been liberalised, and
- ▶ loss of employment leads to the cancellation of the residence permit.

### **Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex**

The Committee concludes that the situation in Turkey is not in conformity with Article 20 of the Charter on the following grounds:

- ▶ women are not permitted to work in all professions, which constitutes discrimination based on sex;
- ▶ the limits imposed on compensatory awards in cases of discrimination based on sex may prevent such violations from being adequately remedied and effectively prevented.

### **Article 25 - Right of workers to protection of their claims in the event of the insolvency of their employer**

The Committee concludes that the situation in Turkey is not in conformity with Article 25 of the Charter on the grounds that:

- ▶ holiday pay due as a result of work performed during the year in which the insolvency or the termination of employment occurred are not covered by Turkish legislation;
- ▶ the amounts due in respect of other types of paid absence relating to a prescribed period which shall not be less than three months under a privilege system and eight weeks under a guarantee system are not covered by Turkish legislation.

## Ukraine

### ■ **Article 15§2 - Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)**

The Committee concludes that the situation in Ukraine is not in conformity with Article 15§2 of the Charter on the ground that legislation does not provide for a shift in the burden of proof in discrimination cases.

### ■ **Article 15§1 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Vocational training for persons with disabilities**

The Committee concludes that the situation in Ukraine is not in conformity with Article 15§1 of the Charter on the ground that the right of persons with disabilities to mainstream education is not effectively guaranteed.

### ■ **Article 15§2 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Employment of persons with disabilities**

The Committee concludes that the situation in Ukraine is not in conformity with Article 15§2 of the Charter on the ground that mainstreaming in employment is not effectively guaranteed in respect of persons with disabilities.

### ■ **Article 18§3 - Right to engage in a gainful occupation in the territory of other States Parties - Liberalising regulations**

The Committee concludes that the situation in Ukraine is not in conformity with Article 18§3 of the Charter on the ground that loss of employment leads to the cancellation of the residence permit.

### ■ **Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex**

The Committee concludes that the situation in Ukraine is not in conformity with Article 20 of the Charter on the grounds that the legislation does not provide for a shift in the burden of proof in sex discrimination cases

### ■ **Article 2§7 - Right to just conditions of work - Night work**

The Committee concludes that the situation in Ukraine is not in conformity with Article 2§7 of the Charter on the grounds that

- ▶ possibilities of transfer to daytime work are not sufficiently provided for;
- ▶ laws and regulations do not provide for continuous consultation with workers' representatives on night work conditions and on measures taken to reconcile the needs of workers with the special nature of night work.

## United Kingdom

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

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 18§2 of the 1961 Charter on the ground that the fees charged for work permits are excessive.

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

The Committee concludes that the situation in United Kingdom is not in conformity with Article 4§5 of the 1961 Charter on the ground that the absence of adequate limits on deductions from wages equivalent to the National Minimum Wage may result in depriving workers and their dependents of their means of subsistence.



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 47 member states, 28 of which are 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.



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