



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

6 June 2024

**Proposed questions from the European Committee of Social Rights
for the next statutory report**

Group 1

**To be submitted by States Parties not having accepted the
collective complaints procedure by 31 December 2024**

Introduction

Following the reform of the reporting procedure adopted by the Committee of Ministers¹, States Parties not having accepted the collective complaints procedure, shall submit a report every two years covering provisions from one of two groups² of the Charter.

In co-operation, the European Committee of Social Rights (ECSR) and the Governmental Committee of the European Social Charter and European Code of Social Security (GC) shall define a limited number of targeted questions to be answered in the report, and which will be adopted by the GC.

The number of themes or topics to be covered in one report should in principle not exceed about a dozen.

Accordingly, on the basis of consultations between the two committees, the States Parties due to submit a report on the accepted provisions of the Charter by 31 December 2024 should respond to the questions found in this document. The questions build in part on previous questions posed and on previous conclusions of non-conformity. As such, while the relatively limited number and scope of the questions very much reflect the spirit and form of the new, simplified reporting procedure, their content will enable continuity in terms of the ECSR's reporting work.

In this respect, it is proposed that a particular focus be given to Article 5 (right to organise) and Article 6 (right to bargain collectively), in order to further clarify, reaffirm and develop certain aspects of the ECSR's case law on these key provisions.

In the same spirit of simplification, it has been agreed that States Parties should not be requested to provide information in response to previous conclusions of non-conformity.

Finally, it is recalled that following the above-mentioned reform of September 2022, the previous system of reference periods has been abolished and reports should therefore focus on the situation pertaining at the time of submitting the report. This also means that statistical information should be as recent as possible unless otherwise indicated.

¹ See decision of 27 September 2022 based on [CM\(2022\)114-final](#).

² **First Group**

Article 1 - Article 2 - Article 3 - Article 4 - Article 5 - Article 6 - Article 8 - Article 9 - Article 10 - Article 18 - Article 19 - Article 20 - Article 21 - Article 22 - Article 24 - Article - 25 - Article 28 - Article 29.

Second Group

Article 7 - Article 11 - Article 12 - Article 13 - Article 14 - Article 15 - Article 16 - Article 17 - Article 23 - Article 26 - Article 27 - Article 30 - Article 31.

Article 2 – The right to just conditions of work

Explanatory remark:

A question on working time has been included as previous conclusions suggested that there are certain occupations in States Parties where weekly working hours can exceed 60 hours. States Parties responses would allow the Committee to have a more comprehensive overview of the situation.

The question pertaining to seafarers has been included as the previous conclusions suggested that the ECSR would re-examine its case law in relation to this category of employees.

Moreover, there has been an outstanding issue regarding on-call periods, with many States Parties not in conformity with the Charter on this point.

Questions:

Article 2§1 Reasonable daily and weekly working hours

a) Please provide information on occupations, if any, where weekly working hours can exceed 60 hours or more, by law, collective agreements or other means, including:

- information on the exact number of weekly hours that persons in these occupations can work;
- information on any safeguards which exist in order to protect the health and safety of the worker, where workers work more than 60 hours.

b) Please provide information on the weekly working hours of seafarers.

c) Please provide information on how inactive on-call periods are treated in terms of work or rest time.

Article 3 – The right to safe and healthy working conditions³

Explanatory remark:

The proposed questions which focus on health and safety raise issues identified in the most recent conclusions, notably on Article 3 (right to health and safety at the workplace), or focus on new issues such as risks to health and safety caused by climate change (e.g. having to work in extreme heat or cold). Other proposed questions on Article 3 focus on new issues that were covered by the Committee's Statement of interpretation on Article 3§2 of the Charter in Conclusions 2021, notably the right to digital disconnect.

Furthermore, the questions on Article 3 cover self-employed and vulnerable categories of workers, such as domestic workers, as there were previously many non-conformities on the ground that self-employed and domestic workers were not adequately protected by occupational health and safety regulations. An emphasis has been placed on supervision, as supervision is crucial if the effective implementation of

³ Please note that Article 3 of the European Social Charter also applies to the self-employed.

the right to safe and healthy working conditions is to be guaranteed, especially for vulnerable categories of workers (such as domestic workers, digital platform workers, posted workers and workers employed through subcontracting). Workers are more often exposed to environmental-related risks such as climate change and pollution.

Questions:

Article 3§1 Health and safety and the working environment

Please provide information on the content and implementation of national policies on psychosocial or new and emerging risks, including:

- in the gig or platform economy;
- as regards telework;
- in jobs requiring intense attention or high performance;
- in jobs related to stress or traumatic situations at work;
- in jobs affected by climate change risks.

Article 3§2 of the Revised Charter (Article 3§1 of 1961 Charter) Health and safety regulations

a) Please provide information on:

- the measures taken to ensure that employers put in place arrangements to limit or discourage work outside normal working hours (including the right to disconnect);
- how the right not to be penalised or discriminated against for refusing to undertake work outside normal working hours is ensured.

b) Please provide information on:

- the measures taken to ensure that self-employed workers, teleworkers and domestic workers are protected by occupational health and safety regulations;
- whether temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection under health and safety regulations as workers on contracts with indefinite duration.

Article 3§3 of Revised Charter (Article 3§2 of 1961 Charter) Enforcement of health and safety health regulations

Please provide information on measures taken to ensure the supervision of implementation of health and safety regulations concerning vulnerable categories of workers such as:

- domestic workers;
- digital platform workers;
- teleworkers;
- posted workers;
- workers employed through subcontracting;
- the self employed;

- workers exposed to environmental-related risks such as climate change and pollution.

Article 4 – The right to fair remuneration

Explanatory remark:

The ECSR considers that the inclusion of questions on gender equality are necessary in order to ensure the ECSR's approach to this issue as outlined in the *UWE* decisions on equal pay is applied across States Parties especially as regards measures taken to ensure pay transparency, to reduce the gender pay gap and to increase the representation of women in decision-making positions.

Questions:

Article 4§3 Right of men and women to equal pay for work of equal value

a) Please indicate whether the notion of equal work and work of equal value is defined in domestic law or case law.

b) Please provide information on the job classification and remuneration systems that reflect the equal pay principle, including in the private sector.

c) Please provide information on existing measures to bring about measurable progress in reducing the gender pay gap within a reasonable time. Please provide statistical trends on the gender pay gap.

Article 5 – The right to organise

Article 6 – The right to bargain collectively

Explanatory remark:

Questions concerning the the long-term decline in unionisation and collective bargaining coverage rates across Europe from a social rights perspective are proposed. While the causes of low trade union density rates are complex, these include deindustrialization and globalization, as well as the presence of large non-unionized segments of the workforce, including many workers who are low paid and/or have a precarious contractual situation. One of the questions under Article 5 seeks to articulate the scope of State Party obligations in arresting that decline, without unduly interfering with trade union freedom. Another question looks at some of the reported ways in which unionisation at the workplace has been undermined, for instance by the promotion of alternative sources of representation that are more prone to being controlled by the employer. The decline in trade unionisation is accompanied in many places by the demotion of joint consultation mechanisms in bipartite and tripartite mechanisms, by diluting the contents of the matters of joint interest addressed or downgrading the status of these exchanges.

The decline in collective bargaining coverage has been uneven, with some countries more affected than others. However, in many cases the decline has been associated

with a decentralisation of collective bargaining arrangements and an increase in the discretion afforded to employers in terms of fixing the terms and conditions of the employment relationship. The targeted questions seek to uncover some of the common elements underpinning this process, including, for example, the way in which collective bargaining is articulated across different bargaining levels. They also seek to ascertain what measures are taken by States Parties to arrest and reverse this decline, in line with their duty under Article 6§2 to promote collective bargaining. The questions under Article 6§4 take a closer look at some of the restrictions to the right to strike reported in many States Parties, including the minimum service requirement or the availability of injunctive relief for preventing a strike from taking place.

Questions:

Article 5 Right to organise

a) Please indicate what measures have been taken to encourage or strengthen the positive freedom of association of workers, particularly in sectors which traditionally have a low rate of unionisation or in new sectors (e.g., the gig economy).

b) Please describe the legal criteria used to determine the recognition of employers' organisations for the purposes of engaging in social dialogue and collective bargaining.

c) Please describe the legal criteria used to determine the recognition and representativeness of trade unions for the purposes of engaging in social dialogue and collective bargaining.

Please provide information:

- on the status and prerogatives of minority trade unions;
- on the existence of alternative representation structures at enterprise-level, such as elected worker representatives.

d) Please indicate whether and to what extent the right to organise is guaranteed for members of the police and armed forces.

Article 6§1 Joint consultation

a) Please state what measures are taken by the Government to promote joint consultation.

b) Please describe what issues of mutual interest have been the subject of joint consultation during the past five years, what agreements have been adopted as a result of such discussions and how these agreements have been implemented.

c) Please state if there has been any joint consultation on matters related to (i) the digital transition, or (ii) the green transition.

Article 6§2 Collective bargaining

a) Please provide information on how collective bargaining is coordinated between and across different bargaining levels including information on:

- the operation of factors such as *erga omnes* clauses and other mechanisms for the extension of collective agreements;
- the operation of the favourability principle and the extent to which local/workplace agreements may derogate from legislation or collective agreements agreed at a higher level.

b) Please provide information on the obstacles hindering collective bargaining at all levels and in all sectors of the economy (e. g. decentralisation of collective bargaining).

c) Please provide specific details on:

- the measures taken or planned in order address those obstacles;
- the timelines adopted in relation to those measures;
- the outcomes achieved/expected in terms of those measures.

d) Please provide information on the measures taken or planned to guarantee the right to collective bargaining of (i) economically dependent (self-employed) persons showing some similar features to workers and (ii) self-employed workers.

Article 6§4 Collective action

a) Please indicate:

- the sectors in which the right to strike is prohibited;
- those sectors for which there are restrictions on the right to strike;
- sectors for which there is a requirement of a minimum service to be maintained.

Please give details about the relevant rules concerning the above and their application in practice, including relevant case law.

b) Please indicate whether it is possible to prohibit a strike by seeking injunctive or other relief from the courts or other competent body (administrative body or arbitration body). If affirmative, please provide information on the scope and number of decisions in the last 12 months.

Article 20 – Right to equal opportunities between women and men

Explanatory remark:

See the remark above under Article 4.

Questions:

a) Please provide information on the measures taken to promote greater participation of women in the labour market and to reduce gender segregation (horizontal and vertical). Please provide information/statistical data showing the impact of such measures and the progress achieved in terms of tackling gender segregation and improving women's participation in a wider range of jobs and occupations.

b) Please provide information on:

- measures designed to promote an effective parity in the representation of women and men in decision-making positions in both the public and private sectors;
- the implementation of those measures;
- progress achieved in terms of ensuring effective parity in the representation of women and men in decision-making positions in both the public and private sectors.

c) Please provide statistical data on the proportion of women on management boards of the largest publicly listed companies, and on management positions in public institutions.