January 2026

European Social Charter (revised)

European Committee of Social Rights

Conclusions 2025

GERMANY

This text may be subject to editorial revision.

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts “conclusions”; in respect of collective complaints, it adopts decisions.

A presentation of this treaty as well as statements of interpretation formulated by the Committee appear in the General Introduction to the Conclusions.[1]

The European Social Charter (revised) was ratified by Germany on 29 March 2021. The time limit for submitting the second report on the application of this treaty to the Council of Europe was 31 December 2024 and Germany submitted it on 3 April 2025. On 9 July and 20 August 2025, two letters were addressed to the Government requesting supplementary information regarding Articles 2§1, 3§1, 3§4, 6§4 and 10§4. The Government submitted its replies on 29 August and 10 October 2025.

The present chapter on Germany concerns 15 situations and contains:

– 5 conclusions of conformity: Articles 5, 6§1, 10§4, 20, 29

– 10 conclusions of non-conformity: Articles 2§1, 3§1, 3§2, 3§3, 3§4, 4§3, 6§2, 6§4, 25, 28

The next report from Germany will be due on 31 December 2026.

[1] *The conclusions as well as state reports can be consulted on the Council of Europe's Internet site (www.coe.int/socialcharter).*

Article 2 - Right to just conditions of work

Paragraph 1 - Reasonable working time

The Committee takes note of the information contained in the report submitted by Germany and in the comments by the German Trade Union Confederation (DGB).

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 2§1 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions.

Measures to ensure reasonable working hours

In the targeted question, the Committee asked for 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; as well as information on any safeguards which exist in order to protect the health and safety of the worker, where workers work more than 60 hours.

In reply, the report states that the Working Time Act is based on the principle of a weekly working time of 48 hours (eight hours per day, six days per week). While it is possible to extend daily working hours to 10 per day (weekly hours to 60), in order to protect the workers, a reference period of up to six months can be applied. A collective agreement may authorise an extension of working hours for standby work (security guards) or standby duty (hospitals) to more than ten hours per day or to define a different reference period. However, in the collective agreements sufficient account of the workers' interests must be taken.

The report further states that in areas where collective agreements are not usually concluded, exceptions to maximum weekly working hours can be granted by the supervisory authority, and this is in line with protective measures provided that these exceptions are operationally necessary and the health of workers is not endangered.

The report states that in emergencies and exceptional cases, it is possible to temporarily deviate from the basic standards and without prior approval of the supervisory authority. However, in order to protect workers, a working week of 48 hours on average over a period of six months must not be exceeded.

In its comments, DGB states that the Working Time Act is based on an eight-hour day and a six-day week, thus a weekly working time of 48 hours. An extension of working time to a maximum of ten hours per working day (60 per week) is already possible but it must be compensated for by a compensatory period or time off within six months so that the average working time per day does not exceed eight hours. The parties in the current German Government have agreed to introduce a weekly maximum working time instead of a daily maximum working time and DGB has strongly criticised this move, fearing that it will lead to the abolition of the eight-hour working day, which can be extended to 10 hours. The Government does not provide detailed information on the occupations in which the weekly working time may be 60 hours or on any measures to protect the health and safety of workers when they work more than 60 hours. In addition, the reference period has been extended to six months.

DGB further states that long reference periods are permitted for night work, agriculture, health and care, public service sectors. An opt-out is possible with the worker's consent. Where collective agreements exist, workers are regularly required to give their consent upon hiring, and they are then bound to this opt-out for at least six months, which is problematic in terms of European Union law. Also, the reference period for calculating weekly working time can sometimes reach and even exceed 12 months. Taking into account the opt-out option, the

DGB and its member unions have determined that it is possible to regularly exceed 60 hours per week and also the 48-hour average over the reference period.10. DGB states that for fire brigade personnel, there are 24-hour shifts consisting of eight hours of working time, eight hours of on-call time and eight hours of rest time. After such shift an uninterrupted period of leisure time of 24 hours must be granted. In case of emergency services, 24-hour shifts are also agreed in collective agreements.

In response to a request for additional information, the report states that the possibility of extending weekly working hours to 60 (48 weekly working hours cannot be exceeded in the reference period) exists across all sectors and functions. The reference period can reach 12 months in the context and safeguard of a collective bargaining agreement. This is justified by the social control and equality of power between workers and employers.

The Committee notes that workers performing specific functions in certain sectors and in exceptional circumstances may be allowed to exceed 16 daily working hours limit or 60 weekly working hours limit during short periods. However, certain safeguards must exist (Conclusions 2025, Statement of Interpretation on Article 2§1 on maximum working time). The Committee notes that it is possible to extend daily working hours to more than 10 and consequently weekly – to more than 60, without it being in exceptional circumstances. With the reference periods reaching or even exceeding 12 months, the Committee considers that the situation in Germany is not in conformity with Article 2§1 of the Charter on the ground that the maximum weekly working time may exceed 60 hours and the reference periods can exceed 12 months.

Working hours of maritime workers

In the targeted question, the Committee asked for information on the weekly working hours of maritime workers.

In reply, the report states that the working hours of crew members must not exceed eight per day as a rule in accordance with Section 43 of the Maritime Labour Act. However, there are specific working time regulations (up to 12 in some cases) for two-watch ships, salvage vessels and tugs. In very exceptional cases, the captain can also order different working hours with subsequent time off in lieu. In addition, for every seven-day period, there is a maximum working time limit of 72 hours.

The report further states that the maximum hours of work may be deviated from to a limited extent by collective agreement. In this case, there is a high degree of mutual social control between the parties. In addition, all crew members must pass a medical examination at regular intervals.

In its comments, DGB states that in employment contracts and many collective agreements annual working time is specified in the form of working days to be worked. The collective agreement for German maritime shipping provides for 40-hour working week. However, in practice, the weekly working hours of maritime workers on ships under the German flag are based on a weekly working time of 72 hours for seven working days per week. These provisions are based on the Maritime Labour Convention. DBG states that the compliance with working time regulations on board is inadequately monitored.

The Committee notes that, in order to be in conformity with the Charter, maritime workers may be permitted to work a maximum of 14 hours in any individual 24-hour period and 72 hours in any individual seven-day period. The maximum reference period allowed is one year. Adequate rest periods have to be provided. Records of maritime workers' working hours shall be maintained by employers to allow supervision by the competent authorities of the working time limits (Conclusions 2025, Statement of Interpretation on Article 2§1 on working time of maritime workers).

Law and practice regarding on-call periods

In the targeted question, the Committee asked for information on how inactive on-call periods are treated in terms of work or rest time on law and practice.

In reply, the report states that on-call duty is considered to be full working time, and this applies even if the workers are able to sleep during it. Inactive on-call duty only constitutes working time if the restrictions imposed on the workers objectively and significantly impair their ability to organise their free time and pursue their own interests during these periods. If this is not the case, only the hours actually worked count as working hours, while the rest are considered rest periods.

In its comments, DGB states that German law does not make a clear distinction between work and rest time with regard to on-call duty, and it can be interpreted to mean that on-call duty is not working time.

The Committee notes that, with regard to inactive parts of on-call period during which no work is carried out and where the worker stays at home or is otherwise away from the employer‘s premises, under no circumstances should such periods be regarded as rest periods in their entirety. However, there are two situations that need to be addressed. Firstly, the situation involves a worker who is on-call away from the employer‘s premises (at home or at another designated place by the employer) and who is under an obligation to be immediately available or available at very short notice and on a recurring basis to the employer, and where there are serious consequences in cases of the failure to respond. Such on-call periods, including where no actual work is performed (inactive on-call), must be classified as working time in their entirety and remunerated accordingly in order to be in conformity with the Charter. Secondly, the situation involves a worker who is away from the employer‘s premises (at home or at another place designated by the employer) and who has a certain degree of freedom to manage their free time and is allowed time to respond to work tasks (i.e. they do not have to report for work immediately or at a very short notice or on a recurring basis). In these circumstances, the inactive on-call periods amount neither to full-fledged working time nor to genuine rest periods. In such cases the situation may be considered as being in conformity with the Charter if the worker receives a reasonable compensation. The Committee will assess the reasonableness of the nature and level of such compensation on a case-by-case basis and will take into account circumstances such as the nature of the worker‘s duties, the degree of the restriction imposed on the worker and other relevant factors (Conclusions 2025, Statement of Interpretation on Article 2§1 on on-call periods).

The Committee therefore considers that the situation in Germany is not in conformity with Article 2§1 of the Charter on the ground that inactive on-call periods during which no effective work is undertaken are considered as rest periods.

Conclusion

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

- the maximum weekly weekly working time may exceed 60 hours and the reference periods can exceed 12 months;
- inactive on-call periods during which no effective work is undertaken are considered as rest periods.

Article 3 - Right to safe and healthy working conditions

Paragraph 1 - Safety and health regulations

The Committee takes note of the information contained in the report submitted by Germany and in the comments of the German Trade Union Confederation (*Deutscher Gewerkschaftsbund – DGB*).

The Committee recalls that Germany ratified the revised Social Charter on 29 March 2021. Therefore, this is the first time the Committee examines Germany's national policy framework on occupational health and safety in the context of Article 3§1 of the revised Charter.

The Committee also recalls that in the context of the present monitoring cycle, States were asked to reply to targeted questions for Article 3§1 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1). The assessment of the Committee will therefore include the information provided by the Government in response to the targeted questions.

General objective of the policy

The report provides a detailed overview of the dual occupational safety and health (OSH) system in Germany, which consists of the public OSH system (state authorities, laws and statutory instruments) and statutory accident insurance institutions which have a preventive mandate.

The report notes that the Act to Modernise the Statutory Accident Insurance (*Unfallversicherungsmodernisier-ungsgesetz*) led to the mandate for a Joint German Occupational Safety and Health (OSH) Strategy (*Gemeinsame Deutsche Arbeitsschutzstrategie – GDA*) to be included in the Occupational Safety and Health Act in 2008 and thus enshrined in law (see also the 2013 Conclusion under Article 3§1 of the 1961 Charter). Moreover, the report refers to the "Guideline Paper for the Reorganisation of the Regulations and Rules in Occupational Safety and Health", which defines the relationship between state law and the law of the accident insurance institutions and explains how the two areas are coordinated. The paper found that a manageable, comprehensive and practical set of rules and regulations in the area of OSH at work is an essential prerequisite for cooperation in the areas of consulting and monitoring companies.

The current third Joint German OSH Strategy (2021-2025) focuses on the coordinated supervisory activities of the state OSH authorities and accident insurance providers, the aim of which is to achieve improvements in the organisation of OSH in companies, promote the implementation of appropriate risk assessments as a holistic process and make efficient use of human resources of both institutions. The report notes that the exchange of information between the regional OSH authorities and the accident insurance institutions concerning site visits, which has been mandatory since 2023, contributes to the achievement of these goals. It is also noted that the fourth Joint German OSH Strategy is currently being planned. The Committee notes, based on official sources [https://www.gda-portal.de/EN/GDA], that the strategy is regularly evaluated, and evaluation reports are published.

The report notes that Germany has ratified ILO Convention No. 184, Convention No. 187, and Convention No.161, related to occupational health and safety. On 9 October 2024, the German Government adopted a law ratifying the ILO Convention No. 155. The law has yet to be adopted by the Bundestag. Germany has also implemented in its national law the Directive 89/391/EEC of the European Parliament and the Council, amended by Directive 2007/30/EC.

The Committee takes note of this information. It considers that there is a policy, the objective of which is to foster and preserve a culture of prevention in respect of occupational health and safety. It further concludes that the policy is regularly assessed and reviewed.

Organisation of occupational risk prevention

The Occupational Safety and Health Act requires employers to identify and assess work-related health hazards (risk assessment) and to take appropriate preventive measures to ensure a safe working environment. Employers must check the effectiveness of these measures and adapt them to changing circumstances. Moreover, pursuant to the OSH Act and DGUV (German Statutory Accident Insurance) Provision 2 "Company Doctors and Safety Engineers", employers and company owners are required to appoint an occupational safety specialist who assists companies in integrating OSH across all hierarchical levels and provides guidance on the safe and healthy design of company systems, from the planning phase through to implementation.

The report notes that statutory accident insurance institutions are required to ensure, by all appropriate means, the prevention of occupational accidents, commuting accidents, occupational diseases and work-related health hazards, and to provide effective first aid (Book VII of the Social Code – Statutory Accident Insurance). The prevention mandate of the occupational insurance institutions includes the issuance of their own accident prevention regulations, which are binding for employers and workers covered by the accident insurance. Of particular importance is Accident Prevention Regulation No. 1 (*DGUV Vorschrift 1*) which supplements the state OSH law and connects the two legal systems which complement and reinforce each other. Regulation No. 1 requires that employers adhere to both the accident prevention regulations and state OSH law in their prevention measures. Through Regulation No. 1, state regulations not only apply to workers but also to all insured persons, even those not falling under the definition of workers as per the OSH Act. The statutory occupational accident insurance institutions also regularly conduct campaigns to support the achievement of prevention goals.

At the company level, the works council has information, consultation and hearing rights under the German Works Constitution Act, in connection with OSH, and it has enforceable co-determination rights. The works council has a general duty to monitor the implementation of accident prevention regulations in favour of workers and to promote OSH measures.

The Committee considers that measures for occupational risk prevention, awareness-raising and assessment of work-related risks as well as information and training for workers are provided at state and company level. It also notes that labour inspectorates and accident insurance institutions are involved in developing a health and safety culture among employers and workers (instructions, prevention measures, and advice).

Improvement of occupational safety and health

The report notes that in Germany the competent authorities of the Federal States (*Länder*) are responsible for OSH, alongside the accident insurance institutions. They monitor companies and advise them on how to improve OSH (see Conclusion under Article 3§3 for more details).

The Federal Government issues an annual report on "Safety and Health at Work" in collaboration with the Federal Institute for Occupational Safety and Health (www.bau.de/suga).

In response to a request for additional information, the report notes that, while the mandate of the *Länder* is more focused on OSH inspections, the prevention mandate of accident insurance institutions includes conducting research into occupational hazards and risk prevention as well as disseminating information, offering education, certifications or professional qualifications (e.g. for "Sicherheitsbeauftragte", i.e. those responsible for security within businesses). Each year, the social accident insurance institutions and their umbrella association, the DGUV, deliver training to around 350,000 individuals, on various topics across 20,000 seminars.

The Committee notes that there is a system aimed at improving occupational health and safety through research, development and training.

Consultation with employers' and workers' organisations

The report notes that workers' and employers' organisations are involved in the development of the relevant national strategies, laws and regulations related to occupational health and safety. It notes that the Committee on Safety and Health at Work (*Ausschuss für Sicherheit und Gesundheit bei der Arbeit – ASGA*), which was established under the Occupational Safety and Health Inspection Act of 2021 as an advisory body to the Federal Ministry of Labour and Social Affairs, brings together representatives of public and private employers, trade unions, state authorities, statutory accident insurance and other persons, particularly from the scientific community, thus ensuring broad consultation and participation of civil society in OSH. This committee is responsible for the development of sub-legislative regulations on topics such as risk assessment, mental stress, efficient and up-to-date instructions, screen work that is carried out outside of workplaces, and the effects of climate change on safety and health at work.

In addition, the accident insurance institutions, the federal government and the Federal States (*Länder*) work closely with social partners in the field of prevention under the Joint German OSH Strategy. They set OSH targets jointly for a period of three to five years and carry out coordinated actions and measures to achieve these targets. Social partners act as advisory members in the National Occupational Safety and Health Conference (*Nationale Arbeitsschutzkonferenz – NAK*), the most important body of the Joint German OSH Strategy. The Conference is also supported by an occupational safety and health forum, which meets once a year and includes expert representatives of the umbrella organisations of employers and workers. The role of the OSH forum is to ensure the early and active participation of the expert professional community in the development and updating of the Joint German OSH Strategy and to advise the National Occupational Safety and Health Conference accordingly.

The Committee notes that social partners are consulted in the design and implementation of the occupational health and safety policy.

General policies concerning psychosocial or new and emerging risks

The Committee recalls that new technology, organisational constraints and psychological demands favour the development of psychosocial factors of risk, leading to work-related stress, aggression, violence and harassment. With regard to Article 3§1 of the Charter, the Committee takes account of stress, aggression, violence and harassment at work when examining whether policies are regularly evaluated or reviewed in the light of emerging risks. The States parties have a duty to carry out activities in terms of research, knowledge and communication relating to psychosocial risks (Statement of Interpretation on Article 3§1 of the Charter, Conclusions 2013 and 2017).

In the context of the present monitoring cycle, the Committee asked for information on the content and implementation of national policies on psychosocial or new and emerging risks, including in relation to: (i) the gig or platform economy; (ii) telework; (iii) jobs requiring intense attention or high performance; (iv) jobs related to stress or traumatic situations at work; (v) jobs affected by climate change risks.

The gig or platform economy

The report mentions the risks associated with the platform economy, namely the use of automated monitoring and decision-making systems, which result in increased work pressure on platform workers and lead to excessive demands, competition and a loss of autonomy. The report also notes that platform work that is tied to a particular location is especially hazardous when carried out in public spaces, such as food delivery or mobility services that operate on the road, and is associated with an increased risk of accidents.

The report states that the Occupational Safety and Health Act (*Arbeitsschutzgesetz – ArbSchG*) covers dependent gig and platform workers. In this context, the Committee takes

note of DGB's observations recalling the Committee's previous finding that certain categories of self-employed workers are not sufficiently covered by occupational health and safety regulations and refers to its conclusion under Article 3§2 of the Charter in respect of Germany.

Furthermore, the report refers to Article 12 of the EU Directive on improving working conditions in platform work (Directive (EU) 2024/2831) of 23 October 2024, which addresses the specific risks that platform workers face due to the use of algorithmic management systems by digital labour platforms. It notes that, as part of the ongoing national process for the implementation of the Directive, the issue paper of the Federal Ministry of Labour and Social Affairs concerning statutory occupational safety and health and accident insurance protection in the platform economy (2020) will be evaluated and, if necessary, implemented.

The Committee notes that the Directive (Article 12) places an obligation on digital labour platforms to evaluate the risks of automated monitoring systems and automated decision-making systems to the safety and health of platform workers, in particular as regards possible risks of work-related accidents, psychosocial and ergonomic risks. In this regard, digital platforms must assess whether appropriate safeguards are in place and introduce preventive and protective measures. Digital labour platforms must also ensure effective information, consultation, and participation of platform workers and provide for effective reporting channels in order to ensure the health and safety of platform workers, including from violence and harassment. The Directive also provides that digital labour platforms shall not use automated monitoring systems or automated decision-making systems in a manner that puts undue pressure on platform workers or otherwise puts at risk their safety and physical and mental health.

The Committee takes note of the comment of the DGB that the EU Directive 2024/2831 on platform work has yet to be implemented (the deadline is December 2026). Moreover, the DGB points out that the report fails to provide any information on how platform workers are to be protected in practice under the Occupational Safety and Health Act, namely who is responsible for carrying out the risk assessment and how compliance with this law is to be ensured in general.

While taking into account the plans concerning the transposition of the EU Directive 2024/2831, the Committee observes that the report does not provide adequate information concerning existing national policies on psychosocial or new and emerging risks in relation to the gig or platform economy. Therefore, the Committee concludes that the situation in Germany is not in conformity with Article 3§1 on the ground that it has not been established that there are national policies on psychosocial or new and emerging risks in relation to the gig or platform economy.

Telework

The report notes that the Occupational Safety and Health Act applies to workers in all sectors and industries, including dependent teleworkers who work (permanently or occasionally) from a home workplace.

The report also notes that Appendix 6 of the Workplace Ordinance sets out the minimum requirements for the design and operation of workstations and software, which are also applicable to teleworking. There is also a corresponding practical guidance on the implementation of the legal instruments in the form of technical rules for workplaces concerning display screen equipment (Technical Rules "Screen Work" – ASR A6). The standard was developed by experts from among the social partners, competent authorities, the public accident insurers and scientists.

Furthermore, in order to analyse the potential need to update the existing requirements as a result of new developments such as teleworking, co-working spaces or desk-sharing, the Federal Ministry of Labour and Social Affairs organised several workshops with relevant

stakeholders and experts in 2023. The results of these workshops were published as "Recommendations for Decent Hybrid Work".

The Committee takes note of the DGB's observations that a binding regulatory framework is needed for location-flexible screen work outside the workplace (i.e. the 'home office'), and that the recommendations mentioned in the Government's report merely provide operational-level guidance and therefore do not go far enough.

The Committee refers to its statement of interpretation concerning telework (see Conclusion under Article 3§3) which provides, *inter alia*, that States Parties must take measures to ensure that employers comply with their obligations to ensure safe and healthy working conditions for their teleworkers, including providing information and training to teleworkers on ergonomics, the prevention of psychosocial risks (e.g. isolation, stress, cyberbullying, work-life balance, including digital disconnect and electronic monitoring) and the reporting process.

Jobs requiring intense attention or high performance

With regard to jobs involving work with highly contagious bioagents, the report notes that the technical rules for biological agents (*Technische Regeln für Biologische Arbeitsstoffe – TRBA*) provide detailed information for laboratories (*TRBA 100*), biotechnology (*TRBA 110*), hospitals (*TRBA 250*) and for managing biological threats such as bio-terrorist attacks (*TRBA 130*). Furthermore, the technical rules for hazardous substances (*Technische Regeln für Gefahrstoffe – TRGS*) describe measures for the protection of workers against exposure to hazardous substances (e.g. toxic, carcinogenic, reprotoxic or explosive). These measures include "risk assessment for activities involving hazardous substances" (*TRGS 400)*, "isocyanates – exposure and monitoring" (*TRGS 430*), and "risk-related concept of measures for activities involving carcinogenic hazardous substances" (*TRGS 910*).

As of 1 July 2024, the new technical rules for workplaces (*Technische Regeln für Arbeitsstätten [Arbeitsstättenregeln – ASR*), specifically ASR A6 titled "Screen Work", set out the measures for designing VDU [Visual Display Unit] workstations for work that requires a high level of attention and specifies the protective goals for screen work that are laid down in the Workplace Ordinance. The technical rules for workplaces ASR A6 provide specifications for the design of screen workstations and the use of display screen equipment, which also covers smartphones, tablets and notebooks.

Jobs related to stress or traumatic situations at work

The report states that the mental health programme developed in the Joint German Occupational Safety and Health (OSH) Strategy has revised and updated considerations of psychosocial factors and issued recommendations for implementation in business practice (gda-portal.de). The recommendations outline specific content, goals and procedures when incorporating psychosocial factors in risk assessments.

In its comments, the DGB emphasises that the obligation to take mental stress into account in the risk assessment is still not being adequately implemented and that a binding regulatory framework is needed in this area, in addition to the GDA programme mentioned in the Government's report. The DGB also points out that anti-stress regulation demanded by trade unions has not yet been enacted.

The Committee concludes that the situation in Germany is not in conformity with Article 3§1 on the ground that the content and implementation of national policies on psychosocial or new emerging risks in relation to jobs related to stress or traumatic situations at work are not adequate.

Jobs affected by climate change risks

The report notes that the Ordinance on Safety and Health Protection at Workplaces Involving Biological Agents (*Biostoffverordnung – BioStoffV*) describes the minimum requirements for

when and how to assess the risks originating from biological agents. It also provides information on technical rules for protective measures relating to activities involving biological agents in agriculture and forestry.

The report also provides information on a policy workshop process entitled “Climate changes work” which aims to identify climate-related risks for the workforce and to find adequate future-oriented solutions to protect individual health as well as national productivity. The workshops bring together representatives of all relevant stakeholders, such as social partners (trade unions and employer associations), social insurances, researchers in the field of climate change and communication experts, with the aim of identifying and closing legal gaps, providing recommendations and creating awareness of the relevant issues. The four major topics to be discussed are heat stress and UV exposure, extreme weather conditions, sensitivity and compliance and hazardous substances. The results of the process are expected in 2025.

The Committee recalls its case law under Article 3 in relation to the protection against dangerous agents and substances (including asbestos and ionizing radiation), and air pollution (see Conclusions XIV-2 (1998), Statement of interpretation on Article 3). Further, the Committee notes the United Nations General Assembly Resolution A/RES/76/300 (28 July 2022) “The human right to a clean, healthy and sustainable environment”.

The Committee notes that climate change has had an increasing impact on the safety and health of workers across all affected sectors, with a particular impact on workers from vulnerable groups such as migrant workers, women, older people, persons with disabilities, persons with pre-existing health conditions and youth. As noted by the United Nations Committee on Economic, Social and Cultural Rights, rapid environmental changes, caused by climate change, increase risks to working conditions and exacerbate existing ones (General comment No. 27 (2025) on economic, social and cultural rights and the environmental dimension of sustainable development, UN Doc E/C.12/GC/27, §51). Hazards related to climate change include, but are not limited to, excessive heat, ultraviolet radiation, extreme weather events (such as heatwaves), indoor and outdoor workplace pollution, vector-borne diseases and exposure to chemicals. These phenomena can have a serious effect on both the physical and mental health of workers. (Ensuring safety and health at work in a changing climate, Geneva: International Labour Office, 2024).

States should take measures to identify and assess climate change risks and adopt preventive and protective measures. These risks and impacts should be addressed through appropriate policies, regulations, and collective agreements. Particular attention should be paid to vulnerable workers, such as migrant workers, persons involved in informal work, young and older workers, women, persons with disabilities and persons with pre-existing health conditions. States must effectively monitor the application of standards addressing climate-related safety and health risks, including through appropriate supervisory mechanisms, and should undertake these efforts in close consultation with employers’ and workers’ organisations.

Risk assessment and prevention/protection plans should include measures aimed at mitigating the effects of climate change on the safety and physical and mental health of workers (for example, provision of personal protective equipment, appropriate clothing, sun protection, hydration, ventilation, as well as the introduction of reduced or flexible working hours and the provision of mental health support and other support services, where appropriate).

The Committee further stresses the importance of providing guidance and training to employers and workers, as well as implementing awareness-raising activities, collection of data and carrying out of research concerning the impact of climate change.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 3§1 of the Charter on the grounds that:

- it has not been established that there are national policies on psychosocial or new and emerging risks in relation to the gig or platform economy;
- the content and implementation of national policies on psychosocial or new and emerging risks in relation to jobs related to stress or traumatic situations at work are not adequate.

Article 3 - Right to safe and healthy working conditions

Paragraph 2 - Safety and health regulations

The Committee takes note of the information contained in the report submitted by Germany and in the comments by the German Trade Union Confederation (*Deutscher Gewerkschaftsbund* – DGB).

The Committee recalls that, for the purposes of the present report, States were asked to reply to targeted questions for Article 3§2 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

In its previous conclusion, the Committee held that the situation in Germany was not in conformity with Article 3§1 of the 1961 Charter on the ground that certain categories of self-employed workers were not sufficiently covered by the occupational health and safety regulations (Conclusions XXI-2 (2017)). The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions, including the previous conclusion of non-conformity as part of the targeted questions.

The right to disconnect

In a targeted question, the Committee asked for 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; and on how the right not to be penalised or discriminated against for refusing to undertake work outside normal working hours is ensured.

Based on the report, it appears that Germany does not have any regulations on the right to disconnect. However, strict rules govern working time, including overtime, rest periods, and night work, as well as a prohibition on victimisation.

The Committee recalls that, consistent with States Parties' obligations under Article 3§2, in order to protect the physical and mental health of persons teleworking or working remotely and to ensure the right of every worker to a safe and healthy working environment, it is necessary to fully enable the right of workers to refuse to perform work outside their normal working hours (other than work considered to be overtime and fully recognised accordingly) or while on holiday or on other forms of leave (sometimes referred to as the "right to disconnect") (Statement of interpretation on Article 3§2, Conclusions 2021).

The Committee concludes that the situation in the Germany is not in conformity with Article 3§2 of the Charter on the ground that workers do not have the right to disconnect.

Personal scope of the regulations

In a targeted question, the Committee asked for information on the measures taken to ensure that self-employed workers, teleworkers and domestic workers are protected by occupational health and safety regulations; and on 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.

Self-employed workers

The report reiterates previously provided information, noting that, in line with relevant EU law, there is no general application of occupational health and safety regulations to self-employed workers. However, self-employed workers may voluntarily comply at any time with the occupational health and safety regulations applicable to employers and workers. Moreover, certain self-employed workers in healthcare or agriculture are required to have accident insurance and to follow relevant occupational health and safety regulations accordingly. The DGB notes in its comments that the situation with respect to self-employed workers has not changed since the previous reporting cycle.

The Committee recalls that, under 3§2 of the Charter, all workers, including the self-employed, must be covered by occupational health and safety regulations, since employed and self-employed workers are normally exposed to the same risks (Conclusions 2003, Romania). The Committee also recalls that the law of the Charter and EU law are two different legal systems and the principles, that the rules and obligations constituting EU law do not necessarily coincide with the system of values, principles and rights embodied in the Charter (*Unione sindacale di base (USB) v. Italy*, Complaint No. 170/2018, decision on the merits of 26 January 2022, §§ 44-46), and that its mandate is to assess whether national legislation and practice is compatible with the standards of the Charter.

The Committee notes that the situation that gave rise to its previous conclusions of non-conformity (Conclusions XXI-2 (2017), XX-2 (2013), XIX-2 (2009), XVIII-2 (2007)) has not changed. It therefore reiterates that the situation in Germany is not in conformity with Article 3§2 of the Charter on the ground that certain categories of self-employed workers are not protected by occupational health and safety regulations.

Teleworkers

The report notes that the Occupational Safety and Health Act (*Arbeitsschutzgesetz* – ArbSchG) applies to workers in all sectors and industries, including dependent teleworkers who work, permanently or alternately, from home. Moreover, Appendix 6 of the Workplace Ordinance (*Arbeitsstättenverordnung* – ArbStättV) sets out minimum requirements for the design and operation of workstations and software, also applicable to teleworkers. The DGB notes in its comments that occupational risks faced by teleworkers are insufficiently regulated.

The Committee notes that, under Article 3 of the Charter, teleworkers, who regularly work outside of the employer's premises by using information and communications technology, enjoy equal rights and the same level of protection in terms of health and safety as workers working at the employer's premises. States Parties must take measures to ensure that employers comply with their obligations to ensure safe and healthy working conditions for their teleworkers, such as: (i) assessing the risks associated with the teleworker's work environment; (ii) providing or ensuring access to ergonomically appropriate equipment and protective equipment; (iii) providing information and training to teleworkers on ergonomics, safe use of equipment, physical risks (e.g. musculoskeletal disorders, eye strain) and prevention of psychosocial risks (e.g. isolation, stress, cyberbullying, work-life balance, including digital disconnect, and electronic monitoring); (iv) maintaining clear documentation and records; (v) providing appropriate support through human resources or health and safety officers/services; and (vi) ensuring that teleworkers can effectively report occupational accidents or health and safety issues encountered during telework. States Parties must also take measures to ensure that teleworkers comply with the guidelines and regulations on health and safety and co-operate with employers and labour inspectorate or other enforcement bodies in this sense.

Domestic workers

The report notes that domestic workers are covered by the statutory accident insurance in accordance with Section 2 (1) no. 1 of Book VII of the Social Code (*Sozialgesetzbuch Siebtes Buch – Gesetzliche Unfallversicherung* – SGB VII). According to Section 14 (1) sentence 1 of Book VII of the Social Code, the accident insurance institutions must use all appropriate means to prevent occupational accidents, occupational diseases and work-related health hazards and to ensure effective first aid; in accordance with Section 14 (1) sentence 2 of Book VII of the Social Code, the accident insurance institutions should also investigate the causes of work-related hazards to life and health. In addition, domestic workers are protected by the law governing service and employment contracts and working hours, among others. The Committee also notes the positive assessment by the CEACR on this point, within the scope of monitoring compliance with ILO Convention No. 189 on Decent Work for Domestic Workers, that Germany is a party to (International Labour Organization. (2021). Direct Request

(CEACR) – adopted 2020, published 109th ILC session (2021). Domestic Workers Convention, 2011 (No. 189) – Germany (Ratification: 2013). NORMLEX.).

However, the DGB emphasizes in its comments that around 90% of domestic workers in Germany perform undeclared work and have no insurance cover in the event of accident or illness. Consequently, the DGB considers that, to establish effective occupational safety for domestic workers, undeclared employment in this sector must be reduced and replaced by employment subject to social insurance contributions.

The Committee notes from other sources that the main feature of domestic work in Germany is the extremely high proportion of undeclared work (Gerlinger, T., Hanesch, W. (2024). *Access for domestic workers to labour and social protection – Germany*. European Social Policy Analysis Network, Brussels: European Commission). Therefore, it is assumed that many domestic workers are not protected, or at least not adequately, including as regards the statutory accident insurance mentioned above. The Committee recalls that occupational health and safety regulations must apply to all workplaces without exception, including private homes, and that domestic workers must therefore be protected (Conclusions 2009, Romania). The Committee therefore concludes that the situation in Germany is not in conformity with Article 3§2 of the Charter on the ground that certain categories of domestic workers are not protected by occupational health and safety regulations.

Temporary workers

The report notes that temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection under occupational health and safety regulations as workers on contracts with indefinite duration.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 3§2 of the Charter on the grounds that:

- workers do not have the right to disconnect;
- certain categories of self-employed workers are not protected by occupational health and safety regulations;
- certain categories of domestic workers are not protected by occupational health and safety regulations.

Article 3 - Right to safe and healthy working conditions

Paragraph 3 - Enforcement of safety and health regulations

The Committee takes note of the information contained in the report submitted by Germany and in the comments by the German Trade Union Federation (*Deutscher Gewerkschaftsbund* – DGB).

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to targeted questions for Article 3§3 of the Revised Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

In a targeted question, the Committee asked for information on measures taken to ensure the supervision of the implementation of health and safety regulations concerning vulnerable categories of workers such as: (i) domestic workers; (ii) digital platform workers; (iii) teleworkers; (iv) posted workers; (v) workers employed through subcontracting; (vi) the self-employed; (vii) workers exposed to environmental-related risks such as climate change and pollution.

The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions.

The report provides detailed information on the so-called 'dual occupational safety and health system', which consists of two components: (i) the state occupational safety and health authorities and (ii) the statutory occupational accident insurance institutions (see the report on Article 3§1).

The report notes that the Federal States *(Länder)* are responsible for occupational safety and health. Every Land has its own supervisory authorities (labour inspectorates, government authorities in charge of occupational safety and health). Labour inspectors have the right to enter and inspect companies at any time without prior announcement. The public authorities monitor compliance with occupational safety and health regulations for all areas of activity, depending on their organisational jurisdiction. If the workplace is located within a private domestic setting (e.g. in the context of teleworking), the monitoring powers are typically not as extensive as they are for inspections in a business environment, in order to respect privacy and the fundamental right to the inviolability of the home (Article 13 of the Basic Law).

The report also notes that the accident insurance institutions employ specially trained and independently audited inspectors for the purposes of monitoring and advice (Section 18 of Book VII of the Social Code). Based on their sovereign powers (Section 19 of Book VII of the Social Code), inspectors are authorised to visit companies without prior notice in order to check compliance with state occupational safety and health regulations and with the accident insurance institutions' accident prevention regulations.

The Committee notes that the DGB in its comments raises concerns regarding the actual implementation and enforcement of health and safety regulations, highlighting the insufficient resources available to supervisory authorities to enable them to meet the minimum inspection rate. Moreover, the DGB submits that the 2017 report of the Senior Labour Inspectors' Committee (SLIC) clearly states that German supervisory authorities 'rarely' impose penalties, even in cases of 'serious or repeated violations', and that there is no indication that this situation has changed since then.

Domestic workers

The report indicates that domestic workers are covered by the statutory accident insurance in accordance with Section 2 (1) No. 1 of Book VII of the Social Code *(Sozialgesetzbuch Siebtes Buch – Gesetzliche Unfallversicherung – SGB VII)*. As outlined in Section 14 (1) sentence 1 of Book VII of the Social Code, accident insurance institutions must use all appropriate means to prevent occupational accidents and diseases, as well as work-related health hazards, and

ensure effective first aid. Section 14 (1) sentence 2 of Book VII of the Social Code stipulates that accident insurance institutions should also investigate the causes of work-related hazards to life and health. In addition, domestic workers are protected by legislation governing service and employment contracts and working hours among other things. The report also states that Germany has ratified ILO Convention No. 189 on Decent Work for Domestic Workers.

In its comments, the DGB states that approximately 90% of domestic workers in Germany perform undeclared work and are not insured in the event of an accident or illness. The Committee notes from other sources that, according to survey results, there is a lack of knowledge about the rights of domestic workers among both those affected and their employers (Gerlinger, T., Hanesch, W. (2024). *Access for domestic workers to labour and social protection – Germany.* European Social Policy Analysis Network, Brussels: European Commission). The same source indicates that empirical studies suggest that the vast majority of private households do not fulfil their statutory reporting and contribution obligations. Conversely, many workers in households appear to be unaware of their rights or reluctant to assert them.

The Committee concludes that the situation in Germany is not in conformity with Article 3§3 of the Charter on the ground that insufficient measures have been taken to ensure the supervision of the implementation of health and safety regulations concerning domestic workers.

Digital platform workers

The report states that the Occupational Safety and Health Act (*Arbeitsschutzgesetz – ArbSchG*) applies to dependent workers in all fields of activity and sectors, including dependent gig and platform workers (see report on Article 3§1). In its comments, while noting the statement on the applicability of the Safety and Health Protection Act, the DGB submits that the report does not contain any information on how platform workers are to be protected in concrete terms (for example, with regard to the so-called risk assessment, who is responsible for carrying it out and how compliance with this law is to be ensured in general). The DGB further points out that the EU Directive 2024/2831 on platform work has yet to be implemented (the implementation deadline pursuant to Art. 29: para. 1: 2 December 2026).

Teleworkers

The report states that the Occupational Safety and Health Act (*Arbeitsschutzgesetz – ArbSchG*) applies to workers in all sectors and industries, including dependent teleworkers who work from home either permanently or alternately. The DGB notes in its comments that occupational risks faced by teleworkers are insufficiently regulated.

The report indicates that in 2023, the Federal Ministry of Labour and Social Affairs organised a series of workshops with relevant stakeholders and experts to discuss an update on the requirements for teleworking. The results of these workshops were published as "*Recommendations for Decent Hybrid Work*".

The Committee notes that, under Article 3 of the Charter, teleworkers, who regularly work outside of the employer's premises by using information and communications technology, enjoy equal rights and the same level of protection in terms of health and safety as workers working at the employer's premises.

States Parties must take measures to ensure that employers comply with their obligations to ensure safe and healthy working conditions for their teleworkers, such as: (i) assessing the risks associated with the teleworker's work environment; (ii) providing or ensuring access to ergonomically appropriate equipment and protective equipment; (iii) providing information and training to teleworkers on ergonomics, safe use of equipment, physical risks (e.g. musculoskeletal disorders, eye strain) and prevention of psychosocial risks (e.g. isolation, stress, cyberbullying, work-life balance, including digital disconnect, and electronic

monitoring); (iv) maintaining clear documentation and records; (v) providing appropriate support through human resources or health and safety officers/services; and (vi) ensuring that teleworkers can effectively report occupational accidents or health and safety issues encountered during teleworking. States Parties must also take measures to ensure that teleworkers comply with the guidelines and regulations on health and safety and co-operate with employers and labour inspectorate or other enforcement bodies in this sense.

The labour inspectorate or other enforcement bodies must be entitled to effectively monitor and ensure compliance with health and safety obligations by employers and teleworkers. This requires to: (i) conduct regular and systematic supervision, including remote audits; (ii) review employers' risk assessments and training documentation; (iii) verify the appropriateness and effectiveness of preventive measures taken by employers; (iv) have adequate resources, legal authority, and clearly defined powers to issue corrective instructions and impose proportionate and dissuasive sanctions in cases of non-compliance.

Posted workers

The report notes that the Monitoring Unit for Undeclared Work *(Finanzkontrolle Schwarzarbeit – FKS)* contributes to monitoring the implementation of safety and health regulations for posted workers with regard to accommodation provided directly or indirectly, for a fee or free of charge, by employers for workers who are temporarily relocated for work. Should the Monitoring Unit, during the course of its activities as part of its holistic inspection approach, become aware of indications of potential violations of the requirements for these lodgings (Section 5, sentence 1, No. 4 of the Posted Workers Act *(Arbeitnehmerentsendegesetz – AEntG)*, it shall transmit these to the competent Land authorities for the monitoring of occupational safety and health regulations, and for the independent exercise of monitoring powers.

Workers employed through subcontracting

The report indicates that employers seeking to make their workers (temporary agency workers) available to third parties for the purpose of providing labour by means of temporary employment generally need a permit from the Federal Employment Agency. The Federal Employment Agency regularly monitors, among other things, whether the permit holders are complying with the provisions of the occupational safety and health law.

Self-employed workers

The report notes that there is no general application of occupational health and safety regulations to self-employed persons. However, self-employed persons have the option to be insured in statutory accident insurance by applying the statutes of the accident insurance funds, and hence to be placed under the protection of the accident prevention regulations (Section 3 of Book VII of the Social Code– *SGB VII*). Moreover, certain self-employed workers in healthcare or agriculture are covered by the compulsory accident insurance.

The Committee notes that according to the information provided by the report, in general, accident insurance institutions employ specially trained and independently audited inspectors for monitoring and advice (Section 18 of Book VII of the Social Code). The inspectors can check compliance with state occupational safety and health regulations and the accident insurance institutions' accident prevention regulations.

Workers exposed to environment-related risks such as climate change and pollution

The report notes that the Ordinance on Biological Agents (Ordinance on Safety and Health Protection at Workplaces Involving Biological Agents, *Biostoffverordnung – BioStoffV*) sets out the minimum requirements for assessing risks originating from biological agents. It provides information on technical rules relating to activities involving biological agents in

agriculture and forestry. The report also provides information on a policy workshop process entitled “Climate Changes Work”, which aims to identify the risks for the workforce in terms of climate change and to find adequate future-oriented solutions to protect individual health as well as national productivity. The four major topics to be discussed are heat stress and UV exposure, extreme weather conditions, sensitivity and compliance, and hazardous substances. The results of this study were expected in 2025.

The Committee recalls that States must effectively monitor the application of standards addressing climate-related safety and health risks, including through appropriate supervisory mechanisms, and should undertake these efforts in close consultation with employers’ and workers’ organisations.

Risk assessment and prevention/protection plans should include measures aimed at mitigating the effects of climate change on the safety and physical and mental health of workers (for example, provision of personal protective equipment, appropriate clothing, sun protection, hydration, ventilation, as well as the introduction of reduced or flexible working hours and the provision of mental health support and other support services, where appropriate). The Committee further stresses the importance of providing guidance and training to employers and workers, as well as implementing awareness-raising activities, collection of data and carrying out of research concerning the impact of climate change.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 3§3 of the Charter on the ground that insufficient measures have been taken to ensure the supervision of the implementation of health and safety regulations concerning domestic workers.

Article 3 - Right to safe and healthy working conditions

Paragraph 4 - Occupational health services

The Committee recalls that Germany ratified the Revised European Social Charter in March 2021 and that it came into force on 1 May 2021. Germany was therefore required to report on the new provisions, in addition to replying to the targeted questions (Article C of the Revised Charter and Article 21 of the 1961 Charter). Article 3§4 of the Revised European Social Charter is one of the new provisions.

The Committee takes note of the information contained in the report submitted by Germany and of the comments in response from the German Trade Union Confederation (*Deutscher Gewerkschaftsbund,* DGB) and the Confederation of German Employers' Associations (*Bundesvereinigung der Deutschen Arbeitgeberverbände*, BDA).

The report states that Germany has ratified ILO Conventions No. 161 on Occupational Health Services, No. 183 on Maternity Protection, No. 184 on Safety and Health in Agriculture and No. 187 on the Promotional Framework for Occupational Safety and Health. It is also in the process of ratifying Convention No. 155 on Occupational Safety and Health.

In addition, Germany has transposed Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, amended by Directive 2007/30/EC, into domestic law.

The report further states that the most important legal bases for occupational health services are a) the Occupational Safety Act, b) Regulation No. 2 on accident prevention ("Occupational physicians and occupational safety specialists"), c) the Occupational Safety and Health Act and d) the Ordinance on Preventive Occupational Health Care.

According to the report, the Occupational Safety Act (*Arbeitssicherheitsgesetz*) obliges employers to appoint occupational physicians and occupational safety specialists in their companies. Their role is to advise and support the respective employer in fulfilling their obligations with regard to occupational safety and health as well as accident prevention.

In the public sector, the standard of occupational safety and health protection must be equivalent to that provided for in the Occupational Safety Act (Section 16 of the Occupational Safety Act). For the direct federal administrative authorities, the General Administrative Regulation for the Provision of Occupational Health and Safety Services in Federal Authorities and Organisations guarantees occupational safety and health equivalent to the Occupational Safety Act. The federal states *(Länder)* have corresponding regulations for the public sector.

The report further states that Regulation No. 2 on accident prevention "Occupational physicians and occupational safety specialists" (*Unfallverhütungsvorschrift "Betriebsärzte und Fachkräfte für Arbeitssicherheit")* issued by German Statutory Accident Insurance (DGUV) lists details of measures that employers must take to meet their obligations under the Occupational Safety Act. In particular, business owners must appoint occupational physicians and occupational safety specialists in writing to carry out the tasks listed in Sections 3 and 6 of the Occupational Safety Act. Employers can choose a different care model if they are actively involved in the business and there are up to 50 workers.

The report also states that under the Occupational Safety and Health Act (*Arbeitsschutzgesetz*), every worker has the right to undergo occupational medical examinations and to receive advice and information on a regular basis and free of charge. The objectives are to recognise and prevent work-related illnesses, including occupational diseases, at an early stage, and also to maintain the employability of workers and to further develop health protection in the workplace.

Under the Ordinance on Preventive Occupational Health Care (*Verordnung zur arbeitsmedizinischen Vorsorge*), the employer must guarantee appropriate preventive occupational health care on the basis of risk assessment. In doing so, they must take into account the regulations and findings arrived at by the Occupational Medicine Committee and

published by the Federal Ministry of Labour and Social Affairs. The employer must commission a physician with the provision of preventive occupational health care. Where an occupational physician has been appointed in accordance with the Occupational Safety Act, the employer must give them priority when commissioning the provision of such health care. The physician must be given all the necessary information regarding workplace conditions (in particular, the outcome of the risk assessment) and they must be allowed access to inspect the workplace.

In response to a request for additional information, the report states that all branches of economic activity and categories of enterprises or workers are covered by occupational health services. There are no exceptions. However, there are different forms of occupational health and safety services depending on the size of the business and the industry. Large companies often have their own, permanently employed company doctors, but there are also intercompany services provided by various organisations and practicing physicians who offer occupational health services. Figures on the distribution are not available. Likewise, exact numbers of physicians active in occupational medicine are not available, as there are no corresponding registers. It is assumed that approximately 90% of companies in Germany are provided with occupational medical care. The coverage is better in larger companies than in small and medium-sized enterprises. Through activities by the accident insurance carriers and awareness campaigns, for example as part of the Joint German Occupational Safety Strategy (*Gemeinsame Deutsche Arbeitsschutzstrategie*), the authorities expect an even better coverage in the future.

In its comments, the German Trade Union Confederation stresses that the Government has not provided any information whatsoever as to whether and, if so when and how, it intends to counteract the existing shortage of occupational physicians.

The Committee notes that in a direct request adopted in 2024, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) stated that "the Government indicates that the lack of qualified personnel in the field of occupational medicine remains an issue, and, in this context, the Federal Ministry of Labour and Social Affairs supports the Occupational Medicine Action Alliance which aims to encourage young occupational physicians and to attract more medical practitioners to occupational medicine". On that basis, the CEACR asked "the Government to continue to provide information on the measures taken or envisaged to strengthen the application in practice of the Convention, including through addressing the shortage in occupational health physicians" (ILO Occupational Health Services Convention No. 161 – CEACR, direct request adopted in 2024 and published at the 113th ILC session (2025)).

The Committee recalls that Article 3§4 requires States Parties to promote, in consultation with employers' and workers' organisations, the progressive development of occupational health services that are accessible to all workers, in all branches of economic activity and for all enterprises.

If such services are not established within all enterprises, public authorities must develop a strategy, in consultation with employers' and workers' organisations, for that purpose. Any strategy to promote the progressive development of occupational health services must include the full national territory, cover nationals of other States Parties, and not only some branches of activity, major enterprises or especially severe risks, but all types of workers. States must attempt to achieve the objectives of the Charter within a reasonable time, with measurable progress and making maximum use of available resources.

The Committee further recalls that occupational health services specialise in occupational medicine and have preventive and advisory functions that go beyond mere workplace safety. They contribute to risk assessments and prevention measures in the workplace, health supervision of workers and training in occupational safety and health. They also assess the impact of working conditions on worker health. They must be trained, equipped and staffed to identify, measure and prevent work-related stress, aggression and violence.

The number of occupational physicians in relation to the total workforce, the number of enterprises providing occupational health services or which share those services, as well as any increase in the number of workers supervised by those services are relevant to the assessment of conformity with this provision, as is ratification of ILO Occupational Health Services Convention No. 161, or the transposition into domestic law of Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work.

In this case, the Committee notes that Germany has ratified ILO Conventions Nos. 161, 183, 184 and 187 and transposed Council Directive 89/391/EEC into domestic law. It also notes that occupational health services are available for workers in both the private and public sectors. In accordance with the legislation and regulations in force, employers are required to set up occupational safety and health services by appointing occupational physicians and occupational safety specialists in their companies or opting for another model.

The Committee further notes that under Section 3 of the Occupational Safety Act, occupational physicians are tasked with assisting employers with all issues relating to health protection, occupational safety and accident prevention. In particular, they must advise employers and other persons responsible for occupational safety regarding the purchase of technical equipment and the implementation of work processes; the selection of protective equipment; work physiology, work psychology, ergonomics and occupational health (including pace of work, working hours and break arrangements); and the organisation of first aid in companies. They must also monitor the health of workers (examinations) and inform workers of the accident and health risks to which they are exposed at work, as well as the means and measures to prevent such risks. Moreover, occupational physicians are responsible for monitoring the implementation of occupational safety and accident prevention measures. In this connection, they must inspect workplaces at regular intervals and, where necessary, report any shortcomings noted to employers or the persons responsible for occupational health and safety and accident prevention and propose measures to eliminate the shortcomings.

However, the Committee notes that in its report, the Government has not provided any data that would make it possible to assess the situation in practice. In this connection, the Committee notes that in a direct request adopted in 2024, the CEACR referred to a “shortage in occupational health physicians”. It also notes that according to the findings of a study conducted between September 2023 and April 2024 to assess the development of occupational health and safety, there has been major progress in occupational health and safety in Germany over the past 10 years. Nevertheless, the study shows that some goals of the Joint German Occupational Safety Strategy have not yet been achieved. For instance, almost a third of companies are still not conducting risks assessments, 30 years after the relevant statutory obligation came into force. Moreover, a large number of small companies which follow the “standard model” for organising occupational health and safety have not appointed safety professionals and/or occupational physicians (*Bericht zur Betriebs- und Beschäftigtenbefragung* 2023/2024, as at 31 March 2025, Dr Felix C. Grün, Office of the National Occupational Health and Safety Conference (NAK), Federal Institute for Occupational Safety and Health, Berlin).

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 3§4 of the Charter on the ground that it has not been established that there are adequate occupational health services in practice.

Article 4 - Right to a fair remuneration

Paragraph 3 - Non-discrimination between women and men with respect to remuneration

The Committee takes note of the information contained in the report submitted by Germany, as well as in the comments by the German Trade Union Confederation (DGB) and by the Confederation of German Employers´ Associations (BDA).

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to the targeted questions for Article 4§3 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided in the report in response to the targeted questions.

The notion of equal work and work of equal value

In its targeted question the Committee asked the report to indicate whether the notion of equal work and work of equal value is defined in domestic law or case law.

The Committee recalls that under Article 4§3 in order to establish whether work performed is equal or of equal value, factors such as the nature of tasks, skills, educational and training requirements must be taken into account. Pay structures shall be such as to enable the assessment of whether workers are in a comparable situation with regard to the value of work. The value of work, that is the worth of a job for the purposes of determining remuneration should be assessed on the basis of objective gender-neutral criteria, including educational, professional and training requirements, skills, effort, responsibility and working conditions, irrespective of differences in working patterns. These criteria should be defined and applied in an objective, gender-neutral manner, excluding any direct or indirect gender discrimination.

The Committee considers that the notion of equal work or work of equal value has a qualitative dimension and may not always be satisfactorily defined, thus undermining legal certainty. The concept of “work of equal value” lies at the heart of the fundamental right to equal pay for women and men, as it permits a broad scope of comparison, going beyond “equal”, “the same” or “similar” work. It also encompasses work that may be of a different nature, but is, nevertheless, of equal value.

States should therefore seek to clarify this notion in domestic law as necessary, either through legislation or case law (Conclusions XV-2, Article 4§3, Poland). No definition of work of equal value in legislation and the absence of case law would indicate that measures need to be taken to give full legislative expression and effect to the principle of equal remuneration, by setting the parameters for a broad definition of equal value.

According to the report, the notion of equal work and work of equal value is defined in the Transparency in Wage Structures Act *(Entgelttransparenzgesetz – EntgTranspG)* which came into force 2017. In accordance with the case law of the CJEU and the German Federal Labour Court *(Bun-desarbeitsgericht – BAG)*, Section 4 of the Transparency in Wage Structures Act defines the term of *equal work* as work that female and male workers carry out an identical or similar activity at different workplaces or successively at the same workplace. Workers perform work of equal value if they are in a comparable situation with regard to the value of the work on the basis of a set of criteria. This enables the comparison of works that are diverse in nature but whose value is comparable.

The factors that are regularly decisive for comparison include the type of work, the training requirements and the working conditions. According to the report, the EU Pay Transparency Directive, which has to be transposed into national law by June 2026, stipulates that the factors to be used must include at least the four factors of skills, effort, responsibility and working conditions. As not all factors are equally relevant for a specific position, each of the four factors should be weighed by the employer depending on the relevance of those criteria for the

specific job or position concerned. Additional criteria may also be taken into account, where they are relevant and justified. The report indicates that the Federal Government intends to implement the Directive and incorporate the criteria specified by the Directive into the Transparency in Wage Structures Act.

The Committee considers that the situation is in conformity with the Charter on this point.

Job classification and remuneration systems

In its targeted question the Committee asked the report to provide information on the job classification and remuneration systems that reflect the equal pay principle, including in the private sector.

The Committee considers that pay transparency is instrumental in the effective application of the principle of equal pay for work of equal value. Transparency contributes to identifying gender bias and discrimination and it facilitates the taking of corrective action by workers and employers and their organisations as well as by the relevant authorities. In this respect, job classification and evaluation systems should be promoted and where they are used, they must rely on criteria that are gender-neutral and do not result in indirect discrimination. Moreover, such systems must consider the features of the posts in question rather than the personal characteristics of the workers (UWE v. Belgium, Complaint No. 124/2016, decision on the merits of 5 December 2019). Where gender-neutral job evaluation and classification systems are used, they are effective in establishing a transparent pay system and are instrumental in ensuring that direct or indirect discrimination on the grounds of gender is excluded. They detect indirect pay discrimination related to the undervaluation of jobs typically done by women. They do so by measuring and comparing jobs the content of which is different but of equal value and so support the principle of equal pay.

The Committee considers that States Parties should take the necessary measures to ensure that analytical tools or methodologies are made available and are easily accessible to support and guide the assessment and comparison of the value of work and establish gender neutral job evaluation and classification systems.

According to the report Section 4 (4) of the Transparency in Wage Structures Act stipulates that remuneration systems must be designed, both as a whole and in its individual remuneration components, in such a way as to exclude any discrimination based on gender.

To fulfil those criteria, the remuneration system must, in particular:

- objectively take into consideration the type of activity to be carried out;
- be based on common criteria for female and male workers;
- weight the individual differentiation criteria in a discrimination-free manner; and
- be transparent on the whole.

According to the report, the Act will be further developed, also taking into account the EU Pay Transparency Directive that came into force in June 2023 and has to be transposed into national law by June 2026. The requirements stipulated by the EU Pay Transparency Directive significantly exceed the Transparency in Wage Structures Act. This includes a right to information for job applicants about the starting salary for the position in question or its range, as well as a prohibition on employers asking about the salary in the current or previous employment relationship. These requirements prior to employment are currently not contained in national law. Other requirements in the Transparency in Wage Structures Act will need to be fundamentally adapted in order to comply with the EU Pay Transparency Directive. This applies to the individual entitlement to disclosure on remuneration, which so far only applies to employers with more than 200 workers, but under the EU Pay Transparency Directive is granted to all workers regardless of the size of the employer. The threshold for the reporting obligation is also being reduced from employers with more than 500 workers to employers with 100 or more workers. Reporting is required on 7 statistical key indicators; if unjustified gender pay gaps are revealed in groups of workers that conduct equal work or work of equal

value, employers can be obligated to take remedial measures. The EU Pay Transparency Directive furthermore provides for new regulations for better enforcement of the principle of pay equality.

The Committee considers that the situation is in conformity on this point

Measures to bring about measurable progress in reducing the gender pay gap

In its targeted question the Committee asked the report to provide information on existing measures to bring about measurable progress in reducing the gender pay gap within a reasonable time.

The Committee considers that States are under an obligation to analyse the causes of the gender pay gap with a view to designing effective policies aimed at reducing it. The Committee recalls its previous holding that the collection of data with a view to adopting adequate measures is essential to promote equal opportunities. Indeed, it has held that where it is known that a certain category of persons is, or might be, discriminated against, it is the duty of the national authorities to collect data to assess the extent of the problem *(*European Roma Rights Centre v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §27). The gathering and analysis of such data (with due safeguards for privacy and to avoid abuse) is indispensable to the formulation of rational policy (European Roma Rights Centre v. Italy,Complaint No. 27/2004, decision on the merits of 7 December 2005, §23).

The Committee considers that in order to ensure and promote equal pay, the collection of high-quality pay statistics broken down by gender as well as statistics on the number and type of pay discrimination cases is crucial. The collection of such data increases pay transparency at aggregate levels and ultimately uncovers the cases of unequal pay and therefore the gender pay gap. The gender pay gap is one of the most widely accepted indicators of the differences in pay that persist for men and women doing jobs that are either equal or of equal value. In addition, to the overall pay gap (unadjusted and adjusted, the Committee will also, where appropriate, have regard to more specific data on the gender pay gap by sectors, by occupations, by age, by educational level, etc (University Women of Europe (UWE) v. Finland, Complaint No. 129/2016, decision on the merits of 5 December 2019, §206).

The Committee has held that where the States have not demonstrated a measurable progress in reducing the gender pay gap, the situation amounted to a violation of the Charter (University Women of Europe (UWE) v. Finland, Complaint No. 129/2016, decision on the merits of 5 December 2019).

The Committee takes note of the measures implemented by the Government as part of its strategy for overcoming pay inequality.

The Second Executive Positions Act introduces a minimum participation requirement for women on boards of directors of listed companies with worker participation on the basis of parity, which comprise more than three members. The provisions on target values and sanctions have also been amended. If companies set a goal of appointing zero women to the board, they must justify this. Companies that do not report any target value at all or do not give a reason for the target value being zero face fines.

Moreover, the nationwide expansion of child daycare provision is enabling parents in Germany to pursue gainful employment and better reconcile work and family life. Since 2008, the Federal Government has invested a total of EUR 5.4 billion in the expansion of childcare places. Taken together, these measures have led to the creation of more than 750,000 childcare places for children of pre-school age.

Further measures to reduce the gender pay gap

According to the report, in order to reduce the earnings gap between women and men based on the causes of such gap, the Federal Government adopted a large number of secondary legislative measures. These measures include:

- the improvement of underlying conditions by means of family policy measures and promotion of return to work;
- parental allowance, which aims at supporting higher labour participation of women
- the right to return from part-time to full-time work in accordance with Section 9a of the Part-Time and Fixed-Term Employment Act *(Teilzeit- und Be-fristungsgesetz – TzBfG)* ensures that eligible workers who reduce their working hours for a limited period of time can return to their original working hours after the part-time phase ends. It also allows for a temporary part-time job with a right to return to the previous working hours and can thus also prevent women from involuntarily remaining in part-time work for too long.
- removing gender stereotypes – expanding career paths / the spectrum of career opportunities

According to the report, the average hourly gross earnings of women in 2024 came to € 22.24, which is 16% lower than those of men (€26.34). Compared to the previous year, it fell by two percentage points. This is the sharpest decline since calculations began in 2006. Although the rate has been declining for some time, it remained at the 2020 level.

The Committee notes from the comments submitted by the Confederation of German Employers´ Associations (BDA) that the principle of equal pay for women and men for equal work is a matter for employers. Women and men are paid equally by the same employer if they perform the same work. Collective labour agreements in particular guarantee fair and appropriate remuneration that is non-discriminatory. The actual causes of the pay gap can be traced back above all to the different employment and professional behaviour of women and men and the unequal distribution of family care work. Such problems must be tackled by society as a whole.

The Committee further notes from the comments submitted by the German Trade Union Federation (Deutscher Gewerkschaftsbund – DGB) that measures need to be taken to address the gender pay gap in Germany. Regarding childcare, DGB states that it is not enough to create legal entitlements to early childhood education, it is crucial to establish the material, infrastructural and human resources required to ensure that childcare services meet the needs of all parents. The DGB also calls for the swift and complete implementation of the EU Pay Transparency Directive into national law. Moreover, the DGB states further development of parental allowance is needed, by extending the non-transferable part of the allowance to create positive incentives for fathers. Furthermore, DGB believes that the comparatively low salaries in many female-dominated professions and fields of work contribute significantly to the gender pay gap. Therefore, the DGB considers that it is necessary to raise the status of female-dominated professions. According to DGB the federal government should step up efforts in this regard so that workers in those sectors where many women work, such as childcare and retail, benefit from living wages.

The Committee also notes from Eurostat that in 2020 the gender pay gap amounted to 18.3% and to 17.7% in 2023. The Committee notes that despite the measures taken, sufficient measurable progress has not been observed and the gender pay gap remains significantly above the EU average (12%). Therefore, the situation is not in conformity with the Charter on this point.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 4§3 of the Charter on the ground that there has been no measurable progress in reducing the gender pay gap.

Article 5 - Right to organise

The Committee takes note of the information contained in the report submitted by Germany as well as the comments submitted by the German Trade Union Federation (DGB) and the Confederation of German Employers' Association (BDA).

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to the targeted questions for Article 5 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided in the report in response to the targeted questions.

Positive freedom of association of workers

In its targeted question a), the Committee asked for information on measures that 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).

According to the report, several measures have been implemented to enhance the positive freedom of association.

The measures are aimed at strengthening collective bargaining coverage in specific sectors. The Act to Strengthen Collective Bargaining Autonomy has expanded the broad impact of collective agreements and thus strengthened their regulatory effect. Furthermore, the Collective Agreements Act has introduced a simplified procedure for declaring collective agreements generally applicable, while the possibility of extending working conditions under the Posted Workers Act has been opened up for all sectors. The report also refers to the Minimum Wage Act that safeguarded a minimum wage level even in sectors where collective bargaining parties were often unable to ensure adequate protection for workers themselves.

The report underlines that the initiatives that the Federal Government has undertaken to strengthen collective bargaining coverage are aimed at eliminating the disadvantages faced by companies bound by collective agreements.

The report states that the measures taken by the Federal Government are fundamentally suitable for strengthening collective bargaining coverage in all sectors, including the platform economy. The report refers to the recently adopted EU Directive on improving working conditions in platform work. According to the report, Article 20 establishing communication channels for persons performing platform work and Article 25 promoting collective bargaining in platform work are examined and will be implemented as part of the ongoing national transposition process of the directive if it leads to further improvements in this respect.

The Committee also notes, from outside sources (ETUC, Country Report 2022, Germany, Platform Reps) that most platforms in Germany provide employment contracts to their workers (albeit often fixed-term), which entitle them to a range of labour rights guaranteed by the employment law (e.g., a minimum wage or paid sick, holiday, and parental leave). Particularly since late 2021, there has been a notable improvement in the share of workers with an worker status in the platform economy. The established trade unions support workers in platforms through dedicated initiatives (e.g., advice for self-employed crowdworkers or IG Metall's Code of Conduct) and negotiate with platforms. In addition, works councils have been established (e.g., at Foodora).

New entities are being formed with the trade unions' support, which work as contact points between the unions and workers (including Velogista, the Gorillas Workers Collective, or Deliverunion). People are also setting up cooperatives as an alternative business model to multinational platforms that emphasise the working conditions aspect (e.g., the Crow Cycle Courier Collective or the Khora Courier Collective).

Legal criteria for determining the recognition of employers' organisations for the purposes of social dialogue and collective bargaining

In reply to the Committee's request for information concerning the legal criteria for determining the recognition of employers' organisations for the purposes of social dialogue and collective bargaining (targeted question b)), the report states that in German law, the capacity of an individual employer to conclude collective agreements ensures that trade unions always have negotiating partner for the conclusion of collective agreements. This safeguards the effective implementation of the principle of autonomy in collective bargaining by allowing collective agreements to be concluded even if an employer does not belong to any employers' association.

Employers' association must be voluntary, capable of organised decision-making and be independent of any changes in their composition. There is no size requirement, but the employers' association must represent the collective interests of employers. An employers' associations' capacity to negotiate collective agreements also requires that it is not financially or personally dependent on or linked to social opponents (workers, workers' associations, trade unions). The compulsory associations (those in which membership is mandatory under public law) are not entitled to conclude collective agreements under German law.

Legal criteria for determining the recognition and representativeness of trade unions in social dialogue and collective bargaining

In a targeted question, the Committee requested information on the legal criteria for determining the recognition and representativeness of trade unions in social dialogue and collective bargaining. It particularly requested information on the status and prerogatives of minority trade unions; and the existence of alternative representation structures at company level, such as elected worker representatives (targeted question c)).

According to the report, under German law, only trade unions have the right to negotiate and conclude collective agreements on behalf of their members and, if an agreement cannot be reached, to call for a strike to force the other side to resume negotiations. The report indicates that minority trade unions enjoy the same rights and legal status as larger trade unions because German labour law does not differentiate based on trade union size, provided the criteria for trade union status are met.

However, according to the jurisprudence of German labour courts, to possess the capacity to conclude collective agreements, a trade union must have appropriate "assertive strength" to negotiate with employers. This ensures equal bargaining power between parties. The report stipulates that the assertive strength is always assessed based on the number of workers affiliated to a trade union in their sector of activity.

At the company level, workers can elect works councils. Works councils are not an alternative to trade unions and therefore, they do not conduct collective bargaining; nor do they have the right to strike. The report states that they are part of the co-determination system at the company level, as they complement the system of representation of worker interests in Germany.

The right of the police and armed forces to organise

In a targeted question, the Committee requested information as to whether and to what extent members of the police and armed forces are guaranteed the right to organise (targeted question d)).

The report states that in Germany, there are no special rules for police and armed forces with regard to right to organise. Freedom of association is guaranteed by the Constitution. The structure of social dialogue and collective bargaining is similar to the one described above.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 5 of the Charter.

Article 6 - Right to bargain collectively

Paragraph 1 - Joint consultation

The Committee takes note of the information contained in the report submitted by Germany and in the comments by the German Trade Union Confederation (DGB).

The Committee recalls that for the purposes of the present report, States were asked to reply to the targeted questions for Article 6§1 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group 1).

The assessment of the Committee will therefore concern the information provided in the report in response to the targeted questions.

Measures taken to promote joint consultation

In a targeted question, the Committee asked as to what measures are taken by the Government to promote joint consultation.

The report states that Article 9(3) of the German Federal Constitution protects the freedom of association, which guarantees associations the right to 'undertake specific association-related activities', among other things. Activities that are aimed at maintaining and promoting working and economic conditions are therefore protected. These may also include joint consultations that are not necessarily aimed at concluding collective agreements. As a rule, there are no statutory provisions in this regard. Rather, the social partners are free to decide whether and to what extent they enter into such joint consultations as part of their association-related activities.

According to the report, consultations between (and with) the social partners occurred, for example, as part of the legislative process. Section 47 of the Joint Rules of Procedure of the Federal Ministries stipulates that, as part of all legislative procedures, central and general associations of worker and employer organisations must be heard in a timely manner, and this is consistently put into practice.

Issues of mutual interest that have been the subject of joint consultations and agreements adopted

In a targeted question, the Committee asked as to 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.

The report states that one example of joint deliberations with the social partners is the package of measures pursued in the expiring legislative period to strengthen collective bargaining coverage. To this end, the 2021 coalition agreement also provided for issues relating to the strengthening of collective bargaining coverage to be discussed in a social partner dialogue. In February 2023, a dialogue took place with the Trade Union Confederation and the Confederation of Employers' Associations as well as other associations and individual trade unions. The main topic of the dialogue was an exchange of views on the social partners' ideas regarding the measures envisaged in the coalition agreement, to make sure that the social partners' perspective could be effectively taken into account when drafting the proposed regulations.

The DGB confirmed the accuracy of the government's submissions and expressed appreciation for the usefulness of negotiations between social partners that precede the legislative process. For the sake of completeness, the DGB added that "none of the social partner negotiations described had actually led to a legislative procedure to date, for various reasons".

Joint consultation on the digital transition and the green transition

In a targeted question, the Committee asked if there has been any joint consultation on matters related to (i) the digital transition, or (ii) the green transition.

The report states that the practice of holding Consultations between (and with) the social partners as part of the legislative process also applied with regard to legislative proposals in the areas of digital and ecological transformation.

Digital transition

According to the report, the following consultations took place:

- in April 2023, the Federal Ministry of Labour and Social Affairs, in joint leadership with the Federal Ministry of the Interior and Community, conducted a stakeholder dialogue on the basis of the "Proposals for modern worker data protection" which also involved representatives of the social partners.
- in the autumn of 2024, a stakeholder dialogue involving the social partners on the topic of platform work was organised to collect the stakeholders' views and good practices for implementing the EU Directive 2024/2831 to improve working conditions in platform work before its entry into force. The dialogue with stakeholders continues during the work on the draft ministerial bill.

Green transition

In addition to this, the Committee observes that according to Eurofound (2023), Supporting regions in the just transition: Role of social partners, Publications Office of the European Union, Luxembourg) National social dialogue structures and traditions play a major role in the way territorial just transition plans (TJPs) are implemented in Germany, and social partners are members of various bodies, and their input (and influence over decisions) is part of the process.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 6§1 of the Charter.

Article 6 - Right to bargain collectively

Paragraph 2 - Negotiation procedures

The Committee takes note of the information contained in the report submitted by Germany and in the comments by the German Trade Union Federation (*Deutscher Gewerkschaftsbund* – DGB) and the Confederation of German Employers´ Associations (BDA) respectively.

The Committee recalls that, for the purposes of the present report, States were asked to reply to targeted questions for Article 6§2 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided in the report in response to the targeted questions.

Coordination of collective bargaining

In a targeted question, the Committee asked for information on how collective bargaining was coordinated between and across different bargaining levels. Specifically, the question sought details on factors such as *erga omnes* clauses and other mechanisms for the extension of collective agreements, as well as to the favourability principle and the extent to which local or workplace agreements could derogate from legislation or collective agreements concluded at a higher level.

Regarding the *erga omnes* clauses and other extension mechanisms, the report states that national law provides for two principal mechanisms by which collective agreements may be made binding upon employers and workers not otherwise covered: the declaration of universal applicability (*Allgemeinverbindlicherklärung* – AVE) under Section 5 of the Collective Agreements Act (*Tarifvertragsgesetz* – TVG), and the issuance of a statutory instrument pursuant to Sections 7 and 7a of the Posted Workers Act (*Arbeitnehmer-Entsendegesetz* – AEntG). The Collective Agreements Act allows for extensions when deemed necessary in the public interest, particularly when a collective agreement governs most employment relationships within its scope. This requires a joint application by the parties and a majority vote by the collective agreements committee composed of three employer and three worker representatives. Under the Posted Workers Act, extensions may apply to a nationwide collective agreement and to several regional collective agreements applicable across the State. This extension is limited to specific subject matters listed in the Act (e.g. minimum pay, holiday pay or allowance, working hours and rest periods, health and safety, reimbursements, anti-discrimination, protection of maternity). These provisions must be necessary in the public interest. They include the establishment and enforcement of appropriate working conditions, fair competition regarding wages, preservation of jobs, social security contributions, the autonomy of collective bargaining, conflict resolution, etc. Representativeness must be assessed where more than one applicable agreement exists. Procedural requirements differ depending on whether the sector is explicitly referred to in the Posted Workers Act and the involvement of the collective agreements committee is regulated accordingly. The voting threshold may be lower than under the Collective Agreements Act.

Regarding the favourability principle and derogations, the report states that collective agreements have direct and binding effect by law, as per Section 4(1) TVG. Derogations from collective agreements are permissible when explicitly allowed by the agreement itself or when they are more favourable to the worker (upward derogation). Downward derogations are only allowed where the collective agreement expressly provides for an "opening clause" (*Öffnungsklausel*). In practice, it is usually introduced to allow temporary flexibility of working conditions in times of economic emergencies to safeguard employment. Statutory provisions in labour law may be derogated in favour of workers, as these laws primarily establish minimum protection standards. Only exceptionally it is not possible to modify statutory provisions by collective agreement in favour of workers. In specific instances and if agreed so by the parties, collective agreements may derogate from statutory provisions even to the

worker's detriment. Moreover, German collective bargaining law permits deviations from a higher-level sectoral collective agreement (*Verbandstarifvertrag*) by means of a more specific, company-level agreement (*Firmentarifvertrag*), provided it is concluded with the same trade union.

The Committee notes that the favourability principle establishes a hierarchy among different legal norms and among collective agreements at different levels. Accordingly, it is generally understood to mean that collective agreements may not weaken the protections afforded under the law and that lower-level collective bargaining may only improve the terms agreed in higher-level collective agreements. The purpose of the favourability principle is to ensure a minimum floor of rights for workers.

The Committee considers the favourability principle a key aspect of a well-functioning collective bargaining system within the meaning of Article 6§2 of the Charter, alongside other features present in the legislation and practice of States Parties, such as the use of *erga omnes* clauses and extension mechanisms. These features are typically found in comprehensive sectoral bargaining systems with high coverage, usually associated with stronger labour protections.

At the same time, the Committee notes that some States Parties provide for the possibility of deviations from higher-level collective agreements through what may be termed opt-out, hardship, or derogation clauses. The Committee applies strict scrutiny to such clauses, based on the requirements set out in Article G of the Charter. As a matter of principle, the Committee considers that their use should be narrowly defined, voluntarily agreed, and that core rights must be always protected. In any event, derogations must not become a vehicle for systematically weakening labour protections.

Promotion of collective bargaining

In a targeted question, the Committee asked for information on the obstacles hindering collective bargaining at all levels and in all sectors of the economy (e. g. decentralisation of collective bargaining). The Committee also asked for information on the measures taken or planned to address those obstacles, their timeline, and the outcomes expected or achieved in terms of those measures.

The report notes that Germany is experiencing a sustained decline in collective bargaining coverage, which fell from 68% in 2000 to 50% in 2023 and that various factors contributed to this decline. For example, digitalisation made it more difficult to reach workers, especially in the platform economy, due to changed communication channels and forms of work.

The report further notes that the Government is pursuing a broad strategy to progressively strengthen the effectiveness of collective bargaining autonomy and stabilise the collective agreement system. The Government continues to develop targeted measures, building upon the 2014 Act to Strengthen Collective Bargaining Autonomy (*Tarifautonomiestärkungsgesetz*), which expanded mechanisms for increasing the impact and regulatory effect of collective agreements. The declaration of general applicability of collective agreements under the Collective Agreements Act has been simplified and the possibility of extending working conditions under the Posted Workers Act has been opened up for all sectors. The Government plans to adopt legislation that would make federal public procurement conditional upon compliance with a representative collective agreement in the respective industry. This would eliminate the disadvantages faced by companies bound by collective agreements when competing for public contracts and licences from the Federal Government and curb predatory competition based on wage and staff costs.

In response to the Government's outline of extension mechanisms under national law, the DGB states in its comments that the number of applications for declarations of universal applicability has stagnated, despite the measures taken to promote their use. This is attributed to employers' organisations making use of various legal avenues available to them to block

the procedure and, more generally, to the disengagement of employers' organisations from collective bargaining, as illustrated by the increased use of the "OT membership status," detailed further below. The DGB considers the adoption of legislation granting preferential treatment in public procurement to companies bound by collective agreements to be a positive measure aimed at ensuring a level playing field between enterprises. Finally, the DGB notes that companies are often restructured to avoid being bound by collective agreements, leading to a deterioration in workers' employment conditions and a further decline in collective bargaining coverage.

The BDA emphasises in its comments that strengthening commitment to collective bargaining cannot be achieved through a statutory collective bargaining obligation. Such an obligation, it argues, neither fosters trust in collective bargaining autonomy nor demonstrably increases the number of collective agreements. The BDA considers that any legislative interventions aimed at facilitating the use of declarations of universal applicability by restricting employers' veto powers would be detrimental to social partnership and collective bargaining policy more generally. On the contrary, the BDA advocates for legislation that reduces bureaucracy, verification obligations, and controls in this area to a minimum.

The Committee notes, as also acknowledged by the Government in its report, that the last three decades have witnessed an almost continuous decline in the collective bargaining coverage, from 75% in 1996 to 49% in 2023. These figures, however, mask significant differences between traditional industries such as manufacturing and the public sector, where coverage has remained stable, and emerging sectors such as private services and technology, as well as small, medium-sized, or more recently established companies, where coverage is much lower (Eurofound (2024). *Working life country profile: Germany* and Müller, T. (Ed.). (2025). *Collective bargaining and minimum wage regimes in the European Union: The transposition of the EU Directive on adequate minimum wages in the EU27*. Brussels: European Trade Union Institute (ETUI)). The Committee notes based on the same sources, that there has also been a significant weakening of employers' associations because of the introduction of a special 'OT membership status' (i.e., "*ohne tarif*" or "without collective agreement"). This means that employers can be a member of the employers' association without having to apply the sectoral collective agreement signed by the respective employers' association. The Committee further notes the relatively low number of agreements subject to the extension procedure, due to employers exercising their veto powers, and the circumvention of the bargaining process through enterprise restructuring.

The Committee notes that the measures identified in the report to address the obstacles hindering collective bargaining do not appear capable of halting the ongoing decline in collective bargaining. On the one hand, the legislative measures intended to promote the use of extensions have had no discernible effect in practice. On the other hand, the efforts to adopt revised public procurement rules incorporating labour conditionalities, as described above, have stalled. The Committee therefore concludes that the situation in Germany is not in conformity with Article 6§2 of the Charter on the ground that the promotion of collective bargaining is not sufficient.

Self-employed workers

In a targeted question, the Committee asked for information on the measures taken or planned to guarantee the right of self-employed workers, particularly those who are economically dependent or in a similar situation to workers, to bargain collectively.

The report notes that Section 12a (1) no. 1 of the Collective Agreements Act (*Tarifvertragsgesetz – TVG*), allows for the conclusion of collective agreements for "employee-like persons," defined as persons who are economically dependent and in need of social protection comparable to a worker. According to the DGB, this provision enabled the conclusion of collective agreements in the media and cultural sector.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 6§2 of the Charter on the ground that the promotion of collective bargaining is not sufficient.

Article 6 - Right to bargain collectively

Paragraph 4 - Collective action

The Committee takes note of the information contained in the report submitted by Germany and in the comments by the Confederation of German Employers' Associations (BDA) and the German Trade Union Federation (DGB).

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 6§4 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

In its previous conclusion (Conclusions 2022), the Committee held that the situation in Germany was not in conformity with Article 6§4 of the Charter on the ground that all civil servants, regardless of whether they exercise public authority are denied the right to strike. The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions, including the previous conclusion of non-conformity as related to the targeted questions.

Prohibition of the right to strike

In its targeted questions, the Committee asked States Parties to indicate the sectors where the right to strike is prohibited as well as to provide details on relevant rules and their application in practice, including relevant case law.

According to the report, the prohibition on the right to strike concerns only a group of professional civil servants. Individuals who waive their civil servant status and enter into a worker relationship are authorized to excercise the right to strike. The report states that, whereas the right to strike is guaranteed under the protection afforded by Article 9(3) of the Basic Law (*Grundgesetz*) on the right to form associations to safeguard and improve working and economic conditions, strikes are banned in the professional civil service on the ground of Article 33(5) of the Basic Law. The German Federal Constitutional Court has ruled that the German legislator may not make any structural changes in this regard, as recognizing a right to strike would undermine the essential functional principles of German civil service law. The report explains that the prohibition of a right to strike of civil servants serves to ensure a stable administration, the performance of public tasks and thus the functioning of the State and its institutions.

The report refers to the judgement of the European Court of Human Rights (Grand Chamber) delivered on 14 December 2023, in the case of Humpert v. Germany (Applications nos. 59433/18, 59477/18, 59481/18 and 59494/18). The Court found that the ban on strikes for civil servants in Germany did not violate Article 11 of the European Convention on Human Rights since the German legal framework includes various institutional safeguards to enable civil servants and their unions to defend their occupational interests. According to the Court while the right to strike is an important element of trade-union freedom and collective action, strike action is not the only means by which trade unions and their members can protect the relevant occupational interests. The question whether a prohibition on strikes affects an essential element of trade union freedom because it renders the latter devoid of substance in a given context can only be answered in the context of this assessment taking into account all the circumstances of the case.

The Committee recalls that restricting strikes in specific sectors essential to the community may be deemed to serve a legitimate purpose where such strikes would pose a threat to the rights and freedoms of others or to the public interest, national security and/or public health (Matica Hrvatskih Sindikata v. Croatia, Complaint No. 116/2015, decision on the merits of 21 March 2018, §114; Conclusions I (1969), Statement of Interpretation on Article 6§4). Even in essential sectors, however, particularly when they are extensively defined, such as "*energy*", "*health*" or "*law enforcement*", a comprehensive ban on strikes is not deemed proportionate, to the extent that such comprehensive ban does not distinguish between the different functions

exercised within each sector (Matica Hrvatskih Sindikata v. Croatia, Complaint No. 116/2015, decision on the merits of 21 March 2018, §114).

Simply prohibiting workers of these sectors from striking, without distinguishing between their particular functions, cannot be considered proportionate to the aim of protecting the rights and freedoms of others or for the protection of public interest, national security, public health, or morals, and thus necessary in a democratic society (Conclusions XVII-1 (2006), Czech Republic). The imposition of an absolute prohibition of strikes to categories of public servants, such as police officers, prison officers, firefighters or civil security personnel, is incompatible with Article 6§4, since such an absolute prohibition is by definition disproportionate where an identification of the essential services that should be provided would be a less restrictive alternative (Matica Hrvatskih Sindikata v. Croatia, Complaint No. 116/2015, decision on the merits of 21 March 2018, §114; see also Conclusions XVII-1 (2006), Czech Republic). While restrictions to the right to strike of certain categories of civil servants, whose duties and functions, given their nature or level of responsibility, directly affect the rights and freedoms of others, the public interest, national security or public health, may serve a legitimate purpose in the meaning of Article G (Confederation of Independent Trade Unions in Bulgaria (CITUB), Confederation of Labour "*Podkrepa*" and European Trade Union Confederation (CES) v. Bulgaria, Complaint No. 32/2005, decision on the merits of 16 October 2006, §45), a denial of the right to strike to public servants as a whole cannot be regarded as compatible with the Charter (European Organisation of Military Associations (EUROMIL) v. Ireland, Complaint No. 112/2014, decision on the merits of 12 September 2017, §113, citing Conclusions I (1969), Statement of Interpretation on Article 6§4). Allowing public officials only to declare symbolic strikes is not sufficient (Confederation of Independent Trade Unions in Bulgaria (CITUB), Confederation of Labour "*Podkrepa*" and European Trade Union Confederation (CES) v. Bulgaria, Complaint No. 32/2005, decision on the merits of 16 October 2006, §§44-46).

Having regard to the nature of the tasks carried out by judges and prosecutors who exercise the authority of the State and the potential disruption that any industrial action may cause to the functioning of the rule of law, the Committee considers that the imposition of an absolute prohibition on the right to strike may be justified, provided such prohibition complies with the requirements of Article G, and provided the members of the judiciary and prosecutors are have other means through which they can effectively negotiate the terms and conditions of employment, including remuneration.

The Committee recalls that in its previous conclusions it found that the situation in Germany was not in conformity with Article 6§4 on the grounds that all civil servants, regardless of whether they exercise a form of public authority, are denied the right to strike.(Conclusions 2022).

There has been no change to the situation. The Committee therefore concludes that the situation is not in conformity with Article 6§4 of the Charter on the ground that the absolute prohibition on the right to strike for civil servants goes beyond the limits set by Article G of the Charter.

According to the report, members of the armed forces are also prohibited from striking.

The right to strike of members of the armed forces may be subject to restrictions under the conditions of Article G of the Charter, if the restriction is established by law, and is necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals. This includes a requirement that the restriction is proportionate to the aim pursued. The margin of appreciation accorded to States in terms of the right to strike of the armed forces is greater than that afforded to States Parties in respect of the police (European Organisation of Military Associations (EUROMIL) v. Ireland, Complaint No. 112/2014, decision on the merits of 12 September 2017, § 114-116).

Having regard to the special nature of the tasks carried out by members of the armed forces, the fact that they operate under a system of military discipline, and the potential that any industrial action disrupting operations could threaten national security, the Committee considers that the imposition of an absolute prohibition on the right to strike may be justified under Article G, provided the members of the armed forces are have other means through which they can effectively negotiate the terms and conditions of employment, including remuneration (European Organisation of Military Associations (EUROMIL) v. Ireland, Complaint No. 112/2014, decision on the merits of 12 September 2017, §117; Confederazione Generale Italiana del Lavoro (CGIL) v. Italy, Complaint No. 140/2016, decision on the merits of 22 January 2019, §152; European Organisation of Military Associations (EUROMIL) v. Portugal, Complaint No. 199/2021, decision on the merits of 11 September 2024, §100).

The report states that soldiers have the right to form and to join unions. The unions' umbrella organisations must always be consulted in preparing general provisions governing matters of civil service law section 35a of the Act on the Legal Status of Military Personnel). In addition, the responsible ministry and the unions are in regular contact at the executive and working levels. Their discussions focus on issues affecting the occupational interests of the personnel concerned. These personnel are just as entitled as any other workers to have their levels of remuneration reviewed by courts.

Restrictions on the right to strike and a minimum service requirement

In its targeted questions, the Committee asked States Parties to indicate the sectors where there are restrictions on the right to strike and where there is a requirement of a minimum service to be upheld, as well as to provide details on relevant rules and their application in practice, including relevant case law.

According to the report the right to strike is guaranteed under the protection afforded by Article 9(3) of the German Basic Law on the right to form associations to safeguard and improve working and economic conditions, and that it has been further developed in case-law, in particular by the Federal Labour Court (Bundesarbeitsgericht – BAG) and the Federal Constitutional Court (Bundesverfassungsgericht – BVerfG). According to this provision and this case-law, the right to strike can be restricted by conflicting rights of the employer and third parties. Consequently, the limitations to the right to strike are determined by the principle of proportionality and the weighing of interests on a case-by-case basis by labour courts.

In addition, the report states that industrial action in areas of critical infrastructure is subject to special requirements of proportionality. In such cases, the established practice is that the social partners conclude agreements which guarantee emergency supplies for critical infrastructure when industrial action is taken.

The Committee recalls that the introduction of a minimum service requirement might be considered to be in conformity with Article 6§4 of the Charter, as read in conjunction with Article G of the Charter (Matica Hrvatskih Sindikata v. Croatia, Complaint No. 116/2015, decision on the merits of 21 March 2018, §114, also Conclusions XVII-1 (2006), Czech Republic).

The Committee recalls that employers should not have the power to unilaterally determine the level of minimum services which are required to be maintained during a strike. The Committee notes from the report that the level of minimum service is set by social partners.

Prohibition of the strike by seeking injunctive or other relief

The Committee asked States Parties to indicate whether it is possible to prohibit a strike by obtaining an injunction or other form of relief from the courts or another competent authority (such as an administrative or arbitration) and if the answer is affirmative, to provide information on the scope and number of decisions in the past 12 months.

The report states that it is possible to prohibit a strike by seeking a temporary injunction from a labour court. The requirements are high however, since such prohibitions affect the right to

strike under Article 9 (3) of the Basic Law so that even a temporary prohibition of a labour dispute can be considered only in exceptional cases.

The report indicates that the Government has no information on the number of such decisions in the past 12 months.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 6§4 of the Charter even taking into account the possibility of subjecting the right to collective action to restrictions under Article G, on the ground that all civil servants are denied the right to strike.

Article 10 - Right to vocational training

Paragraph 4 - Long term unemployed persons

The Committee recalls that Germany ratified the Revised European Social Charter in March 2021 and that it came into force on 1 May 2021. Germany was therefore required to report on the new provisions, in addition to replying to the targeted questions (Article C of the Revised Charter and Article 21 of the 1961 Charter). Article 10§4 of the Revised European Social Charter is one of the new provisions.

The Committee takes note of the information contained in the report submitted by Germany and of the comments in response from the German Trade Union Confederation (*Deutscher Gewerkschaftsbund,* DGB) and the Confederation of German Employers' Associations (*Bundesvereinigung der Deutschen Arbeitgeberverbände*, BDA).

The report contains detailed information on the legal framework and the support measures to help the long-term unemployed to get back to work. In particular, the Citizen's Benefit Act (*Bürgergeld-Gesetz*), which came into force in 2023, places emphasis on the promotion of vocational training and continuing education and training, with the aim of placing employable people in need of assistance in sustainable employment. For example, access to funding opportunities has been simplified to allow more people to benefit from them. To this end, the possibility of funding unabridged retraining, Section 180 (4) of Book III of the Social Code, and access to funded acquisition of basic skills (reading, maths, IT, etc.), Section 81 (3a) of Book III of the Social Code, have been made more flexible. Financial incentives for participation in further training that leads to a vocational qualification have been introduced or continued (e.g. further training allowance of €150 per month for qualification-related further training, Section 87a (2) of Book III of the Social Code, and further training premium for successfully completed exams, Section 87a (1) of Book III of the Social Code). Publicly subsidised employment for people at the margins of the labour market in accordance with Section 16i of Book II of the Social Code was extended for an indefinite period of time as of 1 January 2023.

The report states that the Participation Opportunities Act (*Teilhabechancengesetz*), which came into force in 2019, aims to give people who have been unemployed for a very long time fresh prospects on the labour market by improving their employability through intensive support, individual advice and effective promotion. The Act introduced two new support measures, i.e. "integration of the long-term unemployed" (Section 16e of Book II of the Social Code) and "participation in the labour market" (Section 16i of Book II of the Social Code).

Integration of the long-term unemployed is aimed at people who have been unemployed for at least two years despite receiving placement support. Wage subsidies are paid to the employer if an employment contract is concluded for a minimum of two years. The subsidies (75% of the wage in the first year of employment and 50% in the second year) are combined with holistic employment-related support (coaching). In the medium and long term, the funding is aimed at strengthening employability and enabling the long-term unemployed to take up unsubsidised work on the general labour market.

Similarly, with the participation in the labour market measure, employers can receive wage subsidies for up to five years for the employment of employable persons entitled to benefits if they establish an employment relationship with such persons that is subject to social insurance contributions. During the first two years of funding, subsidies amounting to 100% of wages are granted. People over the age of 25 who have not worked (or have only worked briefly) for at least six years and have received unemployment benefit II or citizen's benefit during this time can be assigned to an employer.

The report further states that the combination of wage cost subsidies and employment-related support is a key feature of both the above-mentioned support measures. For the integration of the long-term unemployed (Section 16e of Book II of the Social Code), benefits may be paid for any continuing education and qualifications in parallel to the subsidised

employment. Moreover, in accordance with Section 16i (5) of Book II of the Social Code, grants totalling up to €3 000 per supported person may be paid towards the costs of continuing education and training.

The report details other measures for the reintegration of the unemployed, including the long-term unemployed, in particular:

- measures for activation and vocational integration (Section 45 of Book III of the Social Code), of which the duration (up to 12 weeks) and content (ranging from support with the preparation of applications to career guidance) are usually tailored to the needs of the persons in question;
- direct financial support both for job searches and for taking up employment (Section 44 of Book III of the Social Code), e.g. reimbursement of travel costs to job interviews;
- holistic support for integration into work (Section 16a of Book II of the Social Code). This is implemented by municipal integration services and may include care for underage children, debt counselling, psychosocial support and addiction counselling;
- a back-to-work allowance (Section 16b of Book II of the Social Code), which is paid for a maximum of 24 months to persons who take up either employment subject to social insurance contributions or full-time self-employment with a weekly working time of at least 15 hours. There is no legal entitlement to this allowance; the local job centres decide at their discretion whether to grant it;
- work opportunities (Section 16d of Book II of the Social Code). These are aimed at helping people at the margins of the labour market to (re)gain employability by carrying out simple jobs;
- educational measures (Section 16f of Book II of the Social Code) for the long-term unemployed and beneficiaries under the age of 25 who face serious impediments to placement. The support here is discretionary;
- support for young people who are difficult to reach (Section 16h of Book II of the Social Code) enables outreach counselling and support services for young people who are not (or no longer) within the reach of the social benefits systems. The aim is to support young people in a difficult life situation and to get them (back) on the path to education, employment promotion measures, training or work;
- holistic support or coaching (Section 16k of Book II of the Social Code), a new instrument introduced in 2023, aims to provide people with exactly the support they need to develop and stabilise their employability;
- validation of professional competence procedure (introduced in 2024). Under this procedure, the Chamber of Crafts or other competent body determines an applicant's individual professional competence upon application on the basis of a recognised vocational occupation (reference occupation). It also certifies individual professional competence if this is largely or fully comparable with the professional competence required to practise the reference occupation. The aim is to make vocational skills that have been acquired independently of a formal vocational training qualification more visible and more usable, thereby enabling access to employment or the vocational training system.

The report states that unemployed persons who are entitled to unemployment benefit under Book III of the Social Code continue to receive the allowance during continuing education or training in the form of unemployment benefit for continuing education and training. Recipients of citizen's benefit (Book II of the Social Code) also continue to receive the benefit during their training.

The report further states that labour market and occupational research is an ongoing task enshrined in the law and that the Institute for Employment Research *(Institut für Arbeitsmarkt- und Berufsforschung)* is responsible for conducting continuous and long-term research on the development of the labour market, including the investigation of the effects of active

employment promotion. Various publications are available online (see, for example, https://iab.de/en/topics/labour-market-policy/publications-on-the-topic-labour-market-policy/).

In response to a request for additional information, the report states that nationals of other States Parties/foreign nationals have access to training, retraining and reintegration measures available on the labour market if they are entitled to basic income support for jobseekers and if they have a right of residence which was not granted solely for seeking employment, admission to university or vocational training. Persons living in Germany for less than three months are not entitled to basic income support if they are not employed or self-employed; most beneficiaries of international protection are exempted from this rule. In the area of unemployment insurance (Book III of the Social Code), foreign nationals are treated like German nationals.

The report contains a table detailing the number of persons having benefitted from labour market policy measures in 2024. Beneficiaries and measures are listed by categories. Data relating to the long-term unemployed indicate that in 2024, *inter alia*, approximately 137 300 benefited from activation and vocational integration measures (Section 45 of Book III of the Social Code), 35 600 from direct financial support (Section 44 of Book III of the Social Code), 26 700 from measures for the promotion of continuing vocational education, 24 000 from work opportunities (Section 16d of Book II of the Social Code) and 13 000 from back-to-work allowances (Section 16b of Book II of the Social Code).

As regards the impact of the measures on reducing long-term unemployment, the report states that the programme "integration of the long-term unemployed" (Section 16e of Book II of the Social Code) has a significant positive effect on the probability of participants taking up regular unsubsidised employment: after 26 months, previous participants in the programme had a 36-percentage point higher probability of entering regular employment compared to their comparison group. This effect significantly exceeds the effects measured for predecessor programmes. Additional analyses show that a significant share of those in regular employment after the programme ends are working for the same employer, highlighting a positive retention effect.

In its comments, the German Trade Union Confederation (DGB) shares the government's view that the Participation Opportunities Act (which promotes socially insured employment for former long-term benefit recipients with wage subsidies) and the Citizen's Benefit Act (which significantly strengthened support for continuing vocational training) have substantially improved the legal framework for promoting employment for the long-term unemployed.

The DGB asserts however that the federal government's employment promotion policy was and remains completely inadequate. This is because the employment services were not provided with the necessary financial resources to significantly improve their support for the unemployed and to make widespread use of the improved statutory support options. According to the DGB's figures, the number of long-term unemployed people who received subsidised further training leading to a vocational qualification rose by an average of just 37 per month after the introduction of the measure.

The DGB points out that a core element of the Participation Opportunities Act is the "participation in the labour market" support instrument (Section 16i of Book II of the Social Code). This provides support for employment subject to social insurance contributions for up to five years. The peak of 43 000 people receiving support in December 2020 was halved by February 2025. This is due to underfunding of the job centres that administer the support instrument.

The DGB also points out that the new federal government wants to reverse progressive elements of the Citizen's Benefit Act. In future, priority will once again be given in some cases to rapid placement in any job rather than to training and sustainable integration into good work.

The Committee recalls that, in accordance with Article 10§4 of the Charter, States Parties must fight long-term unemployment through retraining and reintegration measures. A person who has been without work for 12 months or more is considered long-term unemployed.

The main indicators of compliance with this provision are the types of training and retraining measures available on the labour market, the number of persons in this type of training, the special attention given to young long-term unemployed and the impact of the measures on reducing long-term unemployment.

Equal treatment with respect to access to training and retraining for long-term unemployed persons must be guaranteed to non-nationals. Article 10§4 does not require the States Parties to grant financial aid to any foreign national on an equal footing with its nationals. However, it does require that nationals of other States Parties who already have resident status in the State Party concerned receive equal treatment with nationals in terms of both access to vocational education (Article 10§1) and financial aid for education (Article 10§4). Those States Parties which 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 Germany's case, the Committee notes that a number of amendments to legislation have been passed in recent years to improve employment promotion for the long-term unemployed and help them get back into work. A range of measures may be granted, subject to eligibility; they apply to all categories of the unemployed, including young people, the self-employed and persons with difficulties finding employment.

The Committee also takes note of the information provided by the Government on the implementation of the reintegration measures for the long-term unemployed (number of beneficiaries per type of measures, and impact of the measures on reducing long-term unemployment). In this connection, the Committee notes from Eurostat that, for persons aged 20-64 years (men and women), long-term unemployment rates (12 months or more) as a percentage of the active population were 1.1% in 2022, 1.0% in 2023 and 1.0% in 2024 (i.e. much lower than the EU-27 rates of 2.4%, 2.2% and 1.9% respectively). In addition, long-term unemployment rates as a percentage of overall unemployment fell from 35.1% in 2022, to 32.5% in 2023 and 28.9% in 2024 (EU-27: 40.4%, 36.9% and 34.2% respectively).

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 10§4 of the Charter.

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

The Committee takes note of the information contained in the report submitted by Germany as well as in the comments by the German Trade Union Confederation (DGB) and by the Confederation of German Employers´ Associations (BDA).

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to the targeted questions for Article 20 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group “Labour rights”).

The assessment of the Committee will therefore concern the information provided in the report in response to the targeted questions.

The Committee recalls that the right to equal pay without discrimination on the grounds of sex is also guaranteed by Article 4§3 and the issue is therefore also examined under this provision for States Parties which have accepted Article 4§3 only.

Women’s participation in the labour market and measures to tackle gender segregation

In its targeted question the Committee asked the report to provide information on the measures taken to promote greater participation of women in the labour market and to reduce gender segregation (horizontal and vertical) as well as 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.

Under Article 20 States Parties should actively promote equal opportunities for women in employment, by taking targeted measures to close the gender gap in labour market participation and employment. They must take practical steps to promote equal opportunities by removing *de facto* inequalities that affect women's and men's chances. The elimination of potentially discriminatory provisions must therefore be accompanied by action to promote quality employment for women.

States must take measures that address structural barriers and promote substantive equality in the labour market. Moreover, the States should demonstrate a measurable progress in reducing the gender gap in employment.

In its assessment of national situations, the Committee examines the evolution of female employment rates as well as the gender employment gap and considers whether there has been a measurable progress in reducing this gap. The Committee notes, that according to Eurostat in 2025 the female employment rate in the EU 27 stood at 71.3%, up from 70% in 2023, compared to 81% and 80.3% for males, respectively, revealing a gender employment gap of around 10%.

As regards the measures taken to promote greater participation of women in the labour market and to reduce gender segregation, the report states that the prevailing goal of the Federal Government in its equal-opportunities policy is to expand the spectrum of career opportunities of women and men and to improve their overall job and career prospects.

The Federal Government is also funding the Federal Forum for Men. This promotes gender-equality-focused men's policies, encouraging men to support equality and share unpaid care work more fairly. Its current project aims to foster sustainable, caring masculinity in society, family, partnerships, and personal life. The MINT Action Plan supports increasing women's participation in STEM (Mathematics, Computer Science, Natural Sciences, and Technology) through educational initiatives and research, funded by the Federal Ministry of Education and Research.

According to the report in 2022, the Action Programme “Equality on the labour market. Creating Prospects” (“GAPS”: Gleichstellung am Arbeitsmarkt. Perspektiven schaffen) was initiated. The programme aims to set standards for gender equality in the digitalised labour market and society and to promote a fair distribution of paid work and unpaid care work between women and men. The programme also aims at increasing the labour-market participation of women as well as contributing to the preservation of a skilled labour force.

According to EIGE report of 2024, Germany scores 72.0 points out of 100 in the Gender Equality Index 2024, 1 point above the EU score. Ranking 10th in the EU, Germany has gained one position since last year’s edition of index. Furthermore, in Germany the full-time equivalent employment rate among women stands at 44%, compared to 61% for men, closely mirroring the EU averages of 44% for women and 58% for men. The duration of working life also reflects a gender gap, with women in Germany averaging 37 years in the workforce versus 41 years for men, slightly above the EU averages of 34 and 39 years, respectively. Finally, the Career Prospects Index shows relatively high expectations for both genders in Germany, with women scoring 65 points and men 68, exceeding the EU averages of 62 and 63, respectively.

In all household configurations, women have significantly lower employment rates than men, with the gap most pronounced among couples with children, 35% in Germany and 26% at the EU level, indicating that traditional gender roles and unequal care responsibilities continue to limit women’s participation in the labour market. Even among single individuals, German women show a lower employment rate (37%) compared to men (60%), suggesting broader structural barriers beyond family-related constraints.

The German Trade Union Confederation (DGB) points out that the German labour market remains strongly gender-segregated, limiting career opportunities and reinforcing gender pay gaps. To address this, girls and boys need support to make career choices free from stereotypes, and existing gender norms must be challenged. The DGB supports government initiatives such as the ‘Klischeefrei’ campaign and ‘Girls’ Day – Mädchen Zukunftstag’, which have been shown to increase girls’ interest in STEM careers. Long-term funding and planning stability for these initiatives are considered essential to sustain their impact.

Despite these efforts, according to the DGB young women’s career choices remain narrow and follow traditional patterns, with over half selecting from just ten of more than 330 apprenticeship occupations. The DGB emphasizes the need for stronger, gender-sensitive career guidance in schools and companies, including training career counsellors and teachers in gender competencies.

The Committee notes from Eurostat that the female employment rate in 2023 stood at 77.4% and at 77.9% in 2025, above the EU average. The Committee notes that the gender employment gap has been declining. Therefore, it considers that the measurable progress has been made in this area.

Effective parity in decision-making positions in the public and private sectors

In its targeted question, the Committee asked the national report to 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.

Article 20 of the Revised European Social Charter guarantees the right to equal opportunities in career advancement and representation in decision-making positions across both the public and private sectors. To comply with Article 20, States Parties are expected to adopt targeted measures aimed at achieving gender parity in decision-making roles. These measures may include legislative quotas or parity laws mandating balanced representation in public bodies, electoral lists or public administration.

The Committee underlines that the effectiveness of measures taken to promote parity in decision-making positions depends on their actual impact in closing the gender gap in leadership roles. While training programmes for public administration executives and private sector stakeholders are valuable tools for raising awareness, their success depends on whether they lead to tangible changes in recruitment, promotion, and workplace policies. States must demonstrate measurable progress in achieving gender equality by providing statistical data on the proportion of women in decision-making positions.

In its assessment of national situations, the Committee examines the percentage of women in decision-making positions in parliaments and ministries and considers whether a measurable progress has been made in increasing their share. The Committee notes from EIGE that 32.5% of the members of Parliaments were women in the EU27 in 2023 and 32.8% in 2025.

The Committee observes that the Federal Government has implemented various legal measures to increase the share of women in leadership positions – both in the private, but also in the public sector, including in Federal Ministries and Commissions. The Act to Supplement and Amend the Regulations on the Equal Participation of Women in Leadership Positions in the Private and the Public Sector (FüPoG II) came into force on 12 August 2021. FüPoG II aims to further increase the representation of women in leadership positions in private companies and the public sector. It includes a minimum participation requirement for members of the management board: if the management board of a large corporation (listed and co-determined with equal representation) consists of four or more persons, at least one woman shall be appointed in future appointments. Furthermore, the sanctions for non-compliance with reporting obligations on targets were developed further.

According to the report, Germany has implemented laws and measures to regularly monitor and promote women's representation in leadership positions. Women held 35.7% of supervisory board positions in co-determined listed companies in 2021 (up from 25% in 2015). Women held 11.5% of executive board positions in 2021 (up from 6.1% in 2015).

As regards the federal administration, according to the report women currently make up 45% of leadership roles. In addition to the above the Federal Government has introduced a programme (Plan FüPo2025) that brings together a range of instruments to increase the share of women in leadership positions in the federal public service, including the expansion of part-time leadership. Only 11% of workers in leadership roles lead in part-time positions. 75% of them are women. The Federal Government is committed to more part-time and shared leadership roles in the public service. For this reason, the programme “Part-time Leadership in Public Service” has been implemented.

The Act on the Participation of the Federation in Appointments to Bodies of the Federal Government (Gesetz über die Mitwirkung des Bundes an der Besetzung von Gremien) requires a quota even for those bodies where the Federal Government can only appoint two seats. Since the Act entered into effect, the share of women in bodies of the Federal Government has almost reached parity. Germany has already established an efficient system. It can therefore suspend the provisions of the EU Directive on improving the gender balance among directors of listed companies and related measures that came into effect in December 2022 and has no need for transposition.

Finally, the Committee notes from EIGE that Germany shows relatively balanced gender representation among government ministers, with women making up 41.2% in 2023 and 44.4% in 2025 48%, above the EU average of 29.9%. There are no legislative candidate quotas in Germany. Women hold 37.5% of seats in the Bundestag in 2025 compared to EU averages of 32.8%.

In light of the above, the Committee finds that the situation in Germany is in conformity with article 20.

Women's representation in management boards of publicly listed companies and public institutions

In its targeted question the Committee asked the national report to provide statistical data on the proportion of women on management boards of the largest publicly listed companies and on management positions in public institutions.

The Committee considers that Article 20 of the Charter imposes positive obligations on States to tackle vertical segregation in the labour market, by means of, inter alia, promoting the advancement of women in management boards in companies. Measures designed to promote equal opportunities for women and men in the labour market must include promoting an effective parity in the representation of women and men in decision-making positions in both the public and private sectors (Conclusions 2016, Article 20, Portugal). The States must demonstrate a measurable progress achieved in this area.

In its assessment of national situations, the Committee examines the percentage of women on boards and in executive positions of the largest publicly listed companies and considers whether a measurable progress has been made in increasing their share. The Committee notes from EIGE the percentage of women on boards of large publicly listed companies amounted to 33.2% in 2023 and 35.1% in 2025 in the EU 27. As regards the percentage of female executives, it stood at 22.2% in 2023 and 23.7% in 2025.

The Committee notes that according to EIGE in 2025, 39.9 % of members on the boards of the largest publicly listed companies were women, up from 37.9% in 2023 and 39.9% in 2025. In 2015, Germany adopted mandatory national gender quotas for listed companies that set a minimum proportion for the under-represented gender to 30 %. Women's representation on the board of the central bank has increased by 7 percentage points since 2022, standing at 40 % in 2023. The Committee further notes that as regards executives, 23.3% was female in 2023 and 26.5% in 2025, above the EU average.

According to the report, the Federal Government is approaching its goal of setting a good example as an employer and achieving the equal participation of women and men in leadership positions in the federal administration by the end of 2025. The proportion of women in leadership positions in the federal administration is currently 45%. The goal of filling leadership positions equally by the end of 2025 is enshrined in law and in the German Sustainable Development Goals (SDG 5.5).

Therefore, the Committee concludes that the situation in Germany is in conformity with Article

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 20 of the Charter.

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

The Committee recalls that Germany ratified the Revised European Social Charter in March 2021 and that it came into force on 1 May 2021. Germany was therefore required to report on the new provisions, in addition to replying to the targeted questions (Article C of the Revised Charter and Article 21 of the 1961 Charter). Article 25 of the Revised European Social Charter is one of the new provisions.

The Committee takes note of the information contained in the report submitted by Germany and of the comments in response from the German Trade Union Confederation (*Deutscher Gewerkschaftsbund*, DGB) and the Confederation of German Employers' Associations (*Bundesvereinigung der Deutschen Arbeitgeberverbände*, BDA).

The report states that Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of workers in the event of the insolvency of their employer and Directive 2008/94/EC of the European Parliament and the Council on the protection of workers in the event of the insolvency of their employer have been transposed into domestic law.

The report further states that adequate protection of workers' claims is ensured in German law and practice through the insolvency allowance (*Insolvenzgeld*). As a guarantee institution, the Federal Employment Agency grants workers an insolvency allowance in the event of their employer's insolvency.

According to the report, workers' claims to remuneration from the period prior to the opening of insolvency proceedings constitute insolvency claims in accordance with Section 38 of the Insolvency Code (*Insolvenzordnung*). Insolvency creditors do not have priority over other creditors, but nor do they have a subordinate status.

Workers' claims to remuneration from the period after the opening of insolvency proceedings generally constitute preferential liabilities pursuant to Section 55 (1) No. 2 of the Insolvency Code.

The report states that the right of workers to protection of their claims in the event of their employer's insolvency is guaranteed primarily by the payment of the insolvency allowance. The rules on insolvency allowances implement Directive 2008/94/EC.

Under Section 165 (1) of Book III of the Social Code, the following are considered as insolvency events: a) a court decision to open insolvency proceedings against the employer's assets; b) the rejection of the application for the opening of insolvency proceedings due to a lack of assets; c) the complete termination of business activities in Germany, if no application for the opening of insolvency proceedings was filed and it is obvious that insolvency proceedings are out of the question due to a lack of assets. These events signal the employer's inability to make payments, including wages and social security contributions.

In the event of insolvency, the Federal Employment Agency pays the wages in place of the employer for the last three months of the employment relationship preceding insolvency. Under Section 165 (1) of Book III of the Social Code, workers are entitled to an insolvency allowance if they were employed in Germany and still have claims to remuneration against their employer for the three months of employment preceding the insolvency.

Workers who were employed in Germany are entitled to an insolvency allowance. "Mini-jobbers", interns, students, pupils, pensioners as well as workers who were seconded abroad temporarily can also claim an insolvency allowance.

The report further states that entitlements to remuneration include all entitlements to remuneration for the employment relationship (Section 165 (1) No. 1 of Book III of the Social Code): wage/salary entitlements (including continued payment of wages in the event of illness and remuneration for leave of absence taken) and all other payments to which the worker is

entitled, e.g. pay for overtime, supplements for work on Sundays, public holidays and at night, hazard and dirty-work supplements and allowances for business travel. Special payments (Christmas bonuses, anniversary bonuses, marriage and birth allowances, etc.) are also covered.

The limitation of the insolvency allowance period to three months generally means that special payments for which there is a pro rata entitlement under the employment contract if the worker leaves the company during the year (e.g. 13th monthly salary) are taken into account on a pro rata basis.

The insolvency allowance amounts to the net pay that workers receive after statutory deductions from gross pay. The maximum gross pay taken into account for this purpose is the monthly contribution assessment ceiling for unemployment insurance. This is determined annually by the Federal Ministry of Labour and Social Affairs; in 2024, it was €5 175.

According to the report, working time credits (Sections 7b et seq. of Book IV of the Social Code) are a form of working time account designed for longer periods of leave from work. In order to ensure that accumulated working time credit is not lost in the event of the employer's insolvency, the employer is obliged to protect the working time credit against insolvency if the employer may in theory become subject to insolvency proceedings and if the working time credit exceeds a certain amount. As regards insolvency protection, Section 7e of Book IV of the Social Code distinguishes between suitable measures (trusteeship models, pledges under the law of obligations or external guarantees and deposit insurance with adequate protection against termination) and models deemed unsuitable because the protection they offer is not considered to be sufficient (mere reserves on the balance sheet and internal group obligations in the form of guarantees, joint and several liability or letters of support). The pension insurance institutions carry out regular audits to check whether the insolvency protection of working time credits is adequate.

In its comments, the German Trade Union Confederation (DGB) states that the Government accurately reflects the legal situation in its report: claims by workers do not constitute special claims in insolvency proceedings. Workers are treated equally to other creditors and must also register their claims in the insolvency schedule. Their claims are therefore neither better nor worse protected than those of other creditors.

The DGB adds that the only special protection for workers is the insolvency allowance, which covers three months of unpaid wages. However, the wage arrears often amount to more than three months' pay. If wage payments continue to be withheld after the insolvency allowance has been paid, workers can register these wage arrears as claims in the insolvency schedule. In addition, the workers affected can apply for unemployment benefits under the equivalent benefit scheme (*Gleichwohlgewährung)*, but these are paid at the standard unemployment benefit rate (60% of net pay or 67% with children) and not at 100%. This reduction in the duration of entitlement can be reversed if the Federal Employment Agency collects or enforces the wage claims transferred to it. Under current law, the insolvency allowance therefore offers only limited protection for workers' claims and the DGB is calling for the entitlement period to be increased from three to six months.

In addition, the DGB points out that although the insolvency allowance includes remuneration for leave taken, it does not include compensation in lieu of vacation. The legislature considered this to be a claim arising after the termination of the employment relationship (see explanatory memorandum to the law). In fact, compensation in lieu of vacation – at least in relation to claims arising before the date of termination – is legally attributable to the days prior to terminations.

The Committee recalls that Article 25 of the Charter guarantees workers the right to protection of their claims in the event of the insolvency of their employer. The term "insolvency" includes both situations in which formal insolvency proceedings have been opened relating to an

employer's assets with a view to the collective reimbursement of their creditors, and situations in which the employer's assets are insufficient to justify the opening of formal proceedings.

In the event of the insolvency of their employer, workers' claims must be guaranteed by a guarantee institution or by any other effective form of protection. Article 25 does not require the existence of a specific guarantee institution; States Parties benefit from a margin of discretion as to the form of protection of workers' claims.

The Appendix to the Charter stipulates, *inter alia*, the minimum amounts of wages and paid absence that must be covered depending on whether recourse is had to a "privilege system" (three months prior to the insolvency) or a "guarantee system" (eight weeks).

The protection afforded, whatever its form, must be adequate and effective, including in situations where the assets of an enterprise are insufficient to cover salaries owed to workers. Guarantees must exist for workers that their claims will be satisfied in such cases. Workers' claims must take precedence over other creditors both under formal bankruptcy proceedings and also in those cases where an enterprise closes down without formally being declared insolvent.

A privilege system, on its own, cannot be regarded as an effective form of protection within the meaning of Article 25. While a privilege system may amount to effective protection in cases where formal insolvency proceedings are opened, this is not so in situations where the employer no longer has any assets. It serves no purpose to have a privilege system when there are no assets to divide among creditors and consequently States Parties must provide for an alternative mechanism to effectively guarantee workers' claims in those situations. Situations where there is no alternative to the privilege system are not in conformity with the Charter.

In order to demonstrate the adequacy in practice of the protection, States Parties must provide information, *inter alia*, on the average duration of the period from when a claim is lodged until the worker is paid and on the overall proportion of workers' claims which are satisfied by the guarantee institution.

States Parties may limit the protection of workers' claims to a prescribed amount which must be of a socially acceptable level. Three times the average monthly wage of the worker is an acceptable level. In addition, the employer is obliged to pay for claims in respect of other types of paid absence (holidays, sick leave) relating to a specified period, at not less than three months under a privilege system and eight weeks under a guarantee system.

In this case, the Committee notes that the definition of cases of insolvency in German law is not restrictive: there is insolvency when the employer is no longer able to make payments (including payment of wages), regardless of whether insolvency proceedings have been opened.

The Committee also notes that workers' claims for remuneration from periods prior to the opening of insolvency proceedings against the employer are ordinary claims, while claims for remuneration from the period after the opening of the proceedings are usually preferential claims. Whether ordinary or preferential, these claims are guaranteed by the Federal Employment Agency.

The insolvency allowance paid by the Federal Employment Agency comprises wages/salaries, sick pay, the allowance for leave taken and any special allowances to which workers may be entitled.

The amounts cover the workers' wages/salaries for the three months preceding the declaration of insolvency. Sick pay and the allowance for leave taken are also covered for these three months.

In the case of wages/salaries, the insolvency allowance corresponds to the net pay that workers receive after statutory deductions from gross pay. The maximum gross pay taken

into account for this purpose is the monthly contribution assessment ceiling for unemployment insurance (which was €5 175 in 2024). The Committee considers that this is a socially acceptable level (in accordance with Article 25§4 of the Appendix to the Charter), in particular given the level of minimum monthly pay (€2 054 per month in Germany in 2024 according to Eurostat).

However, the Committee notes that the Government has not provided any information to demonstrate the adequacy in practice of the protection, for example on the average duration of the period from when a claim is lodged until the worker is paid and on the overall proportion of workers' claims which are satisfied by the guarantee institution.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 25 of the Charter on the ground that it has not been established that workers' claims in the event of insolvency of the employer are adequately protected in practice.

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

The Committee recalls that Germany ratified the Revised European Social Charter in March 2021 and that it came into force on 1 May 2021. Germany was therefore required to report on the new provisions, in addition to replying to the targeted questions (Article C of the Revised Charter and Article 21 of the 1961 Charter). Article 28 of the Revised European Social Charter is one of the new provisions.

The Committee takes note of the information contained in the report submitted by Germany and of the comments in response from the German Trade Union Confederation (*Deutscher Gewerkschaftsbund*, DGB) and the Confederation of German Employers' Associations (*Bundesvereinigung der Deutschen Arbeitgeberverbände*, BDA).

The report states that Germany has ratified ILO Convention No. 135 on Workers' Representatives.

Protection granted to workers' representatives

The report states that all types of workers' representatives recognised under German law (workers' representative bodies, representatives of specific groups of workers and workers' representatives on supervisory boards) are protected against wrongful dismissal and acts prejudicial to them.

Members of workers' representative bodies enjoy special protection against dismissal, i.e. both dismissal with due notice and dismissal without notice (extraordinary dismissal).

In accordance with Section 15 of the Protection against Dismissal Act (*Kündigungsschutzgesetz*), members of works councils, youth and trainee representative bodies, ship's committees or fleet works councils may not be dismissed with due notice during their terms. After the end of their terms of office, dismissal with due notice is excluded for a legally defined period (six months to a year from the end of their terms).

Members of electoral boards and candidates for election to works councils may not be dismissed with due notice from the date of their appointment until six months after the declaration of the election results.

Persons who invite workers to a works council meeting, an electoral board meeting or a ship's committee meeting or request the appointment of an electoral board are also protected against dismissal during the period from the invitation or request until the election results are declared (and, if no election takes place, for three months from the invitation or the request).

Workers who take preparatory steps for the establishment of a works council or a ship's committee and have submitted an officially certified declaration stating their intention to do so ("pre-initiators") are also protected against dismissal for a period from the said official declaration to the invitation to the meeting, but for a maximum of three months.

Members of works councils, youth and trainee representative bodies, ship's committees, fleet works councils and candidates for election are also protected against extraordinary dismissals: such dismissals are possible only if the works council has given prior consent or a court has consented in lieu of the works council (Section 103 of the Works Constitution Act).

The report also states that similar protection against dismissal exists for workers in the public sector, in federal administrations and in federal corporate bodies, institutions and foundations under public law as well as in federal courts and federal operating agencies within the meaning of Section 4 (1) No. 1 of the Federal Staff Representation Act (*Bundespersonalvertretungsgesetz*). The extraordinary dismissal of members of a staff council requires the approval of the staff council. If the staff council refuses to give its consent or does not respond within three working days of receipt of the application, the administrative court may grant consent in lieu of the staff council (Section 55 (1) of the said act). Moreover,

members of staff councils may only be transferred, assigned or seconded against their will if this is unavoidable for important business reasons. The transfer, assignment or secondment of members of staff councils requires the consent of the staff councils (Section 55 (2) of the act).

The report further states that in addition to the prohibition of dismissal, German law contains numerous provisions designed to protect workers' representatives and counteract disadvantages stemming from their role. In particular, in the context of vocational development, the assumption of office in the bodies specified in the law must not lead to any disadvantages (Sections 37 and 78 of the Works Constitution Act). This applies to remuneration (e.g. members of works councils must be released from their work obligations without loss of pay to the extent necessary for the proper performance of their functions and must at least match the salary progression of comparable workers); it also applies to training. Moreover, workers performing functions in the representative bodies provided for by law must not be interfered with or obstructed in the exercise of their activities. These rules apply to youth and trainee representative bodies, fleet works councils and (to a large extent) ship's committees.

Obstructing the establishment of representative bodies is also prohibited (Section 20 of the Works Constitution Act).

According to the report, violations of the prohibitions on prejudicial treatment, favourable treatment or obstruction are punishable by fines or imprisonment (maximum one year) under Section 119 of the Works Constitution Act.

In the public sector, workers within the meaning of Section 4 (1) No. 1 of the Federal Staff Representation Act who are members of staff representative bodies may invoke the general protective provision of Section 10 of that act. It prohibits any obstruction, prejudicial treatment or favourable treatment in the exercise of functions covered by the Federal Staff Representation Act or the exercise of the rights arising from it. This general principle is fleshed out in other provisions of the Federal Staff Representation Act, for example Section 51 (prohibition of reductions in pay during terms on staff councils).

In its comments, the German Trade Union Confederation (DGB) states that the Government's description of the legal protection of workers' representatives is basically correct. However, in the view of the DGB, this protection is insufficient and, in many cases, ineffective.

The DGB states in particular that persons who invite workers to electoral meetings are protected against ordinary dismissal (Section 15 (3)a of the Protection against Dismissal Act); however, they are not protected under Section 103 of the Works Constitution Act (dismissal without notice). Moreover, the protection is limited to the first six persons named in the invitation or the first three persons named in the application to the court. According to the case law of the Federal Labour Court, Section 103 of the Works Constitution Act also does not apply in cases where a substitute member of a works council only joins the works council on a temporary basis and, after leaving the works council, is dismissed without notice (i.e. the prior consent of the works council is not required).

The DGB further states that persons wishing to prepare and initiate works council elections (known as pre-initiators) are only protected against ordinary dismissal with notice (Section 15 (3)b of the Protection against Dismissal Act). In addition, the protection requires that the worker has actually taken preparatory steps and has made a declaration before a notary public stating their intention to establish a works council, and it applies only a) to dismissals for personal and behavioural reasons and b) for a limited period.

Accordingly, persons who issue invitations and persons who initiate elections enjoy only limited protection against dismissal. However, experience has shown that this is the most sensitive phase of intimidation in the run-up to the establishment of a works council.

For the DGB, another issue is that a works council position does not protect workers from fixed-term contracts expiring. For fixed-term workers, serving on a works council therefore entails considerable risk.

The DGB agrees that under German law, members of works councils may not be disadvantaged or favoured on account of their activities as works council members and that this also applies to their professional development. However, remuneration is still based on the hypothetical professional development that works council members would have achieved without taking on such positions – it does not take account of the knowledge and skills acquired by works council members during and as a result of their work.

With regard to sanctions, the DGB stresses that violations of the prohibition of discrimination and the obstruction of works council work are criminal offences under Section 119 of the Works Constitution Act. However, these offences can only be prosecuted upon application. In order to ensure truly effective legal protection, the DGB calls for breaches of Section 119 (1) Nos. 1 and 2 of the act to be classified as offences prosecuted *ex officio*.

With regard to the protection of collective interest groups in the public sector (staff committees), the DGB notes that the Government limits itself to explaining the legal situation at federal level, i.e. for a small group of public sector workers. The majority of public service workers are employed by the federal states and local authorities. At federal level, the DGB underlines that the Federal Staff Representation Act lacks any explicit right of appeal (for staff councils).

The Committee recalls that Article 28 of the Charter guarantees the right of workers' representatives to protection in the undertaking and to certain facilities. It complements Article 5, which recognises a similar right in respect of trade union representatives.

The Appendix to the Charter defines "workers' representatives" as persons who are recognised as such under national legislation or practice. States Parties may therefore recognise different kinds of workers' representatives other than trade union representatives. However, Article 28 is not intended to impose an obligation to introduce any specific types of workers' representatives but to ensure that adequate forms of representation are available to all workers, both within and outside the scope of collective bargaining with employers. Representation may be exercised, for example, through workers' commissioners, workers' councils or workers' representatives on companies' supervisory boards.

Protection should cover the prohibition of dismissal on the ground of being a workers' representative and protection against any other detrimental treatment. Prejudicial acts may entail, for instance, denying workers' representatives certain benefits, training opportunities, promotions or transfers, discriminating against them when issuing lay-offs or assigning retirement options or subjecting them to shift cut-downs or any other taunts or abuse.

The protection afforded to workers' representatives must be extended for a reasonable period after the effective end of their term of office. Situations where the protection of workers' representatives against dismissal is limited to the period of performance of their functions, until their mandates expire, are not in conformity with Article 28 of the Charter. Nor are situations where the protection afforded lasts for three months after the end of their mandates. The Committee has found the situation to be in conformity where the protection is extended for six months (or more) after the end of workers' representatives' mandates.

Remedies must be available to workers' representatives who are dismissed unlawfully. Where discrimination takes place, domestic law must make provision for compensation that is adequate and proportionate to the harm suffered by the victim. The compensation must at least correspond to the wage that would have been payable between the date of the dismissal and the date of the court decision or reinstatement.

In this case, the Committee notes that German law provides for different types of workers' representation (works councils, youth and trainee representative bodies, ship's committees,

etc.) and that all workers' representatives are protected against wrongful dismissal and other prejudicial acts based on their status or activities as workers' representatives in the undertaking.

The Committee further notes that workers' representatives are protected against dismissal when exercising their functions and that this protection is extended for at least six months after the end of their functions as workers' representatives. Protection concerning the level of remuneration and the level of activities applies during their functions and the year thereafter (Section 37 of the Works Constitution Act).

The Committee also notes that under Section 119 of the Works Constitution Act, violations of the prohibitions on prejudicial treatment, favourable treatment or obstruction are punishable by fines or imprisonment of up to one year. However, the Government has not provided any information as to whether dismissed workers (or workers having suffered other prejudicial acts) on the ground of their status as workers' representatives have legal remedies to seek redress and, if so, if the compensation they can seek is adequate and proportionate to the harm suffered.

The Committee considers that the situation is not in conformity with Article 28(a) of the Charter on the ground that it has not been established that effective redress is available under domestic law for workers' representatives who are dismissed (or suffer other prejudicial acts) because of their status or activities as workers' representatives.

Facilities granted to workers' representatives

The report states that the obligation under Article 28(b) of the Charter to afford workers' representatives such facilities as may be appropriate to enable them to carry out their functions promptly and efficiently is met by Sections 37, 38, 40 and 80 of the Works Constitution Act.

In particular, works council members (and other workers' representatives, such as members of youth and trainee delegations) must be released from their work obligations without loss of pay to the extent necessary to perform their functions properly. Moreover, by way of compensation for works council activities which for operational reasons must be performed outside working hours, members of works councils are entitled to corresponding time off without loss of pay.

In addition, staff representatives must be released from their work obligations without loss of pay to attend training they need for performing their representation duties. They are also entitled to appropriate equipment. If necessary, works councils may consult experts to assist them. Any expenses arising out of the activities of works councils are defrayed by employers.

The Committee recalls that protected workers must be granted the following facilities: paid time off to represent workers, financial contributions to works councils and the use of premises and materials for works councils, as well as other facilities mentioned by ILO Recommendation No. 143 concerning workers' representatives (access to all premises and access without any delay to the undertaking's management board if necessary, the authorisation to regularly collect subscriptions in the undertaking, the authorisation to post bills or notices in one or several places to be determined with management, etc.).

The Committee considers that the situation is in conformity with Article 28(b) of the Charter.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 28 of the Charter on the ground that it has not been established that effective redress is available under domestic law for workers' representatives who are dismissed (or suffer other prejudicial acts) because of their status or activities as workers' representatives.

Article 29 - Right to information and consultation in procedures of collective redundancy

The Committee recalls that Germany ratified the Revised European Social Charter in March 2021 and that it came into force on 1 May 2021. Germany was therefore required to report on the new provisions, in addition to replying to the targeted questions (Article C of the Revised Charter and Article 21 of the 1961 Charter). Article 29 of the Revised European Social Charter is one of the new provisions.

The Committee takes note of the information contained in the report submitted by Germany and of the comments in response from the German Trade Union Confederation (*Deutscher Gewerkschaftsbund,* DGB) and the Confederation of German Employers' Associations (*Bundesvereinigung der Deutschen Arbeitgeberverbände*, BDA).

The report states that Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies has been transposed into domestic law (see Sections 17 et seq. of the Protection against Dismissal Act, *Kündigungsschutzgesetz*), which is an indication that German law is in conformity with the European Social Charter.

The report further states that Section 17 of the Protection against Dismissal Act lays down the conditions and procedures for collective redundancies. There are collective redundancies where, within a period of 30 calendar days, an employer dismisses:

- more than five workers in establishments with more than 20 and fewer than 60 workers;
- 10% of the workers regularly employed or more than 25 workers in establishments with at least 60 and fewer than 500 workers, or;
- at least 30 workers in establishments with regularly at least 500 workers.

If the above ratios are reached, the employer planning collective redundancies must inform and consult the works council. They must discuss with the works council ways of preventing or limiting the redundancies and mitigating their consequences. To this end, the employer must provide the works council with relevant information in writing and in good time, in particular, the reasons for the planned dismissals, the number and occupational groups of the workers to be dismissed, the number and occupational groups of the workers regularly employed, the period of time in which the dismissals are to take place, the intended criteria for selecting the workers to be dismissed and the criteria for calculating any severance payments.

At the same time as notifying the works council, the employer must also send a copy of the notification to the employment agency. In order to give the employment agency time to prepare for the collective redundancies and to take labour market policy measures, Section 18 of the Protection against Dismissal Act provides for temporary bans on dismissal after the notification has been received.

The report also states that legal consequences of the employer violating the obligations set out in Section 17 of the Protection against Dismissal Act are determined by the Federal Labour Court. For example, according to the current case law of the Federal Labour Court, violations of the employer's duty to consult the works council result in dismissals being invalid.

According to the report, the works council may also be informed and consulted in the event of collective redundancies linked to alterations to establishments pursuant to Sections 111 et seq. of the Works Constitution Act (*Betriebsverfassungsgesetz*, BetrVG). Examples of alterations to the establishment include the closure of the entire establishment or of significant parts thereof; the dismissal of a certain number of workers can in itself constitute an alteration to the establishment. The employer must notify the works council in good time and in detail about the planned alterations and discuss them with it (Sections 111 and 112 of the Works Constitution Act; accommodation of conflicting interests). Moreover, the employer is obliged to agree provisions with the works council to compensate for or mitigate the resulting disadvantages for the workers affected (known as a social compensation plan, Sections 112

and 112a of the Works Constitution Act). If the employer does not attempt to accommodate the conflicting interests of the parties or if it deviates from such accommodation without good reason, the workers affected can seek compensation for the disadvantage suffered (Section 113 of the Works Constitution Act).

The report further states that in addition to the information and consultation obligations provided for in Section 17 of the Protection against Dismissal Act and in Sections 111 et seq. of the Works Constitution Act, the employer must consult with the works council before every individual dismissal and inform the works council about the reasons for the dismissal. Proper consultation of the works council is a prerequisite for valid dismissal (Section 102 (1) of the Works Constitution Act).

Similar regulations exist for workers in the public sector within the meaning of Section 4 (1) No. 1 of the Federal Staff Representation Act.

In its comments, the German Trade Union Confederation (DGB) challenges the Government's assertion that the fact that Directive 98/59/EC has been transposed into domestic law with Sections 17 et seq. of the Protection against Dismissal Act is an indication that German law is in conformity with the European Social Charter. In this connection, the DGB states that Article 29 of the Social Charter is not identical to the provisions of Directive 98/59/EC (or the previous directives) and that it is highly doubtful whether the German legislature has properly transposed Directive 98/59/EC into German law with Sections 17 et seq. of the Protection against Dismissal Act.

According to the DGB, there are doubts as to whether German law complies with Article 29 of the Charter on three points, i.e. a) its scope, b) the possibility of electing ad hoc workers' representatives, and c) preventive measures to enforce the right to information and consultation in collective redundancy procedures.

As to the scope, the DGB states, in particular, that pursuant to Section 17 (5) No. 3 of the Protection against Dismissal Act, senior executives are not considered as workers within the meaning of Section 17 of the act. This violates both Article 29 of the Charter and the Directive, which do not recognise this exception.

As to workers' representatives, the DGB stresses that even though a works council can be elected at any time under German law, works councils cannot usually be elected quickly enough to meet the requirements for an effective consultation procedure. German law does not therefore comply with Article 29 of the Charter.

As to sanctions and preventive measures, the DGB notes that, in its report, the Government merely points out that violations of the consultation requirement under Section 17§2 of the Protection against Dismissal Act result in the termination being invalid. However, it does not address the issue of preventive measures. In this connection, the DGB believes that a claim for injunctive relief by the works council, the trade union or any ad hoc representative body (if necessary, enforceable in urgent proceedings) may be considered.

The Committee would first recall that it is competent neither to assess the conformity of national situations with a directive of the European Union nor to assess compliance of a directive with the European Social Charter. However, when member States of the European Union agree on binding measures in the form of directives which relate to matters within the remit of the European Social Charter, they should – both when preparing the text in question and when transposing it into domestic law – take full account of the commitments they made upon ratifying the European Social Charter. It is ultimately for the Committee to assess compliance of a national situation with the Charter, including when the transposition of a European Union directive into domestic law may affect the proper implementation of the Charter (*Confédération générale du travail* v. France, Complaint No. 55/2009, decision on the merits of 23 June 2010, §33).

In this connection, the Committee recalls that Article 29 of the Charter guarantees workers' representatives the right to be informed and consulted in good time by employers who are planning collective redundancies.

The collective redundancies referred to under Article 29 are redundancies affecting several workers within a period of time set by law and decided for reasons which have nothing to do with individual workers, but correspond to a reduction or change in the firm's activity. The definition of collective redundancies in domestic law must not be too restrictive.

The Appendix to the Charter defines workers' representatives as persons who are recognised as such under national legislation or practice, in accordance with ILO Convention No. 135 on workers' representatives. When employers implement information and consultation procedures preceding collective redundancies, workers should be represented by persons acting on behalf of all workers employed in the workplace. Such representatives may be either bodies operating in the employer's enterprise (for example, trade unions or workers' councils) or ad hoc representatives appointed to take part in the process. Domestic law should ensure that workers may appoint representatives even when they are not otherwise represented in the context of a particular workplace by a trade union or other representative body. Such representatives should represent all workers who may be potentially subject to collective redundancies and should not suffer any negative consequences as a result of their activities in this regard.

Information and consultation processes must take place in good time prior to collective redundancies. Domestic law should thus require employers to provide workers with information about planned collective redundancies sufficiently far in advance of the process, so as to enable workers to become familiar with the key aspects of the planned redundancies. Domestic law should also guarantee the right of workers' representatives to be provided with all relevant information throughout the entire duration of the consultation process. Consultation should be conducted within a time period that is sufficient to ensure that workers' representatives have an opportunity to present suitable proposals with a view to avoiding, limiting or mitigating the effect of the planned redundancies. This information should, in particular, include the reasons for the redundancies, the criteria for determining which workers are to be made redundant, the proposed order and scheduling of such redundancies, the amount of any cash benefits or other forms of compensation and the scope and content of any planned social measures which are designed to mitigate the consequences of the process.

The purpose of the information and consultation process is not only to make workers aware of the reasons for and the scale of the planned redundancies but also to seek to ensure that the position of the workers is taken into account. The obligation to consult implies that there will be sufficient dialogue between the employer and the workers' representatives on ways of avoiding redundancies or limiting their number and mitigating their effects, although it is not necessary that agreement be reached. As part of this process, employers should be required to co-operate with administrative authorities or public agencies which are responsible for the policy counteracting unemployment, by for example notifying them about planned collective redundancies and/or co-operating with them in relation to retraining workers who are made redundant, or by providing them with other forms of assistance with a view to finding a new job.

Consultation rights must be accompanied by guarantees that they can be exercised in practice. Where employers fail to fulfil their obligations, there must be at least some possibility of recourse to administrative or judicial proceedings before the redundancies are made to ensure that they are not put into effect without consultation. Provision must be made for sanctions after the event, and these must be effective, i.e. a sufficient deterrent for employers.

In this case, the Committee notes that the definition of collective redundancies in Section 17 of the Protection against Dismissal Act (in particular, the cover of the workers concerned) is not restrictive (see, for example, Conclusions 2018, Latvia).

The Committee also notes that German law provides for a mandatory information and consultation procedure in the event of collective redundancies. When an employer plans to carry out collective dismissals, they must notify the works council (Section 17 of the Protection against Dismissal Act and Section 111 of the Works Constitution Act). A works council may be elected at any time if none exists in the establishment (Section 13 of the Works Constitution Act).

The Protection against Dismissal Act provides that notification must take place in good time and concern all key aspects (reasons for and scale of the planned redundancies, criteria for calculating severance payments, etc.). This is followed by a phase of discussion between the employer and the works council on, among other things, ways of preventing or limiting the number of redundancies and mitigating their effects (Section 17§2). The employer must also notify the employment agency of the planned redundancies, attaching the works council's position on the redundancies to the notification; the works council may subsequently submit additional statements to the employment agency (Section 17§3). Redundancies that must be notified under Section 17 take effect solely with the consent of the employment agency (Section 18).

The employment agency may also intervene in the event of alterations to the establishment (Section 112 of the Works Constitution Act, mediation by the agency when the employer and the works council fail to agree on accommodation of interests or on a social compensation plan).

Lastly, the Committee notes that German law provides for sanctions where employers fail to comply with the information and consultation procedure and that these sanctions are effective (dismissal invalid; compensation for harm suffered, etc.).

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 29 of the Charter.