January 2026

European Social Charter

European Committee of Social Rights

Conclusions XXIII-1

POLAND

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 1961 European Social Charter was ratified by Poland on 25 June 1997. The time limit for submitting the 23rd report on the application of this treaty to the Council of Europe was 31 December 2024 and Poland submitted it on 17 March 2025. On 9 July 2025, a letter was addressed to the Government requesting supplementary information regarding Articles 3§2, 3§3 and 5. The Government submitted its reply on 29 August 2025.

The present chapter on Poland concerns 6 situations and contains:

– 1 conclusion of conformity: Article 5

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

The next report from Poland 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 Poland and in the comments by the OPZZ.

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 1961 Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the 1961 Charter in respect of the provisions falling within Group 1).

In its previous conclusion (Conclusions XXII-3), the Committee held that the situation in Poland was not in conformity with Article 2§1 of the 1961 Charter on the ground that on-call periods where no effective work was performed were considered as rest periods. 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 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.

The report states that, according to the Labour Code, working hours should not exceed eight per day and 40 hours on average over a five-day working week during a reference period not exceeding four months. A maximum weekly working time of 48 hours has been set for the reference period adopted.

The report states that for the following occupations it is possible to exceed 60 weekly working hours: workers responsible for surveillance of property or protecting people, members of fire departments and company's emergency services. If these persons are covered by the basic working time system, they may not work for more than eight hours per day and not more than five hours of overtime per day. The remaining 11 hours are compulsory uninterrupted daily rest. The maximum weekly working time under the basic working time system is 48 hours. With overtime of five hours per day, the weekly working hours (including overtime) are 78 hours. For these workers it is permissible to extend daily working time to 24 hours over a reference period not exceeding one month. The maximum weekly working time under this system may be 96 hours. The report also states that in any case, working hours are limited to 40 per week for an average five-day working week during the reference period adopted, and the overtime hours are limited to 150 per year. However, if the employer is not covered by a collective agreement, it is permissible to set other overtime hours, which then cannot exceed 384 hours per year for a worker with 20 days leave and 376 hours for worker with 26 days leave.

The report further states that the failure to respect rest periods can result in a fine and payment of pecuniary damage.

The report states that since 1 January 2008, legislation governing working hours of healthcare workers has complied with the requirements of the Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time. Law of 15 April 2011 on medical activity stipulates that the maximum working time for workers in medical units may not exceed an average of seven hours and 35 minutes per day and an average of 37 hours and 55 minutes per week over a five-day working week during the adopted reference period. In case of medical professionals who have completed advanced studies and are required to provide on-call medical services, working hours may not exceed and average of 48 hours per week over the reference period

adopted. Workers who have agreed in writing to be covered by the opt-out clause, may work a maximum of 78 weekly hours. A record of working hours of workers who work more than 48 hours must be kept.

The report further states that working hours of police officers are determined by the scope of the tasks which have to be defined in such a way that they can be carried out in a 40-hour working week with a reference period of six months. An increase to a maximum of eight hours of working time per week is authorised. However, these rules do not apply in case of tasks of special nature aimed at protecting the safety of individuals and maintaining public safety.

The Homeland Defence Act of 11 March 2022 states that working hours of professional soldiers are determined by their tasks which must be set in such a way that the can be completed in 40 hours per week. These tasks may not take more than 48 hours per week on average, over a four-month reference period. These rules do not apply to professional military officers acting as commanders of military units or those performing tasks of particular importance or tasks of an extraordinary nature necessary to protect the interests of the State (those involved in preventing and dealing with the consequences of natural or man-made disasters; technical failures with the characteristics of a natural disaster; on duty and on-call; during exercise and training; on military service abroad.

The report also states that workers who manage the company on behalf of the employer are free to organise their work and the Labour Code excludes them from guarantees relating to daily and weekly working hours, overtime and daily rest. As far as weekly rest is concerned, they are guaranteed 24 hours.

In its comments, the OPZZ states that the provisions of the Labour Code allow for equivalent working time systems under which a worker may work up to 16 hours a day and even up to 24 hours a day. This applies to workers responsible for supervising property or protecting persons, as well to members of in-house fire brigades and company emergency services.

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 XXIII-1, Statement of Interpretation on Article 2§1 on maximum working time). The Committee notes from the report that workers responsible for surveillance of property or protecting people, members of fire departments and company's emergency services can work for up to 96 weekly hours, healthcare workers can work up to 78 hours and maximum weekly working hours of those workers who manage the company on behalf of the employer are not set at all. These workers are allowed to work such long hours not only in exceptional circumstances. The Committee therefore considers that the situation in Poland is not in conformity with Article 2§1 of the 1961 Charter on the ground that the maximum weekly working time may exceed 60 hours for workers responsible for surveillance of property or protecting people, members of fire departments and company's emergency services, healthcare workers and workers who manage the company on behalf of the employer.

Working hours of maritime workers

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

The report states that, since 3 May 2012, Poland has been a party to the Maritime Labour Convention of 23 February 2006. Working hours on board of a ship may not exceed eight hours per day and 40 per week over a reference period not exceeding one month. Working hours on a ship at sea may not exceed 56 hours in a seven-day week and, for non-watchkeeping workers, 46 hours in a week. Maximum working hours should not exceed 14 per day and 72 per week. The ship's master may order drills, training but in such a way that rest periods are interrupted as little as possible. The duration of work on board of a ship operated by crews that exchange shifts successively may be extended to 14 hours per day

and 72 hours per week if, after each period of work not exceeding six weeks, the maritime worker is granted shore leave of at least the same duration. With the maritime worker's consent, the duration of such work may be extended to three months.

The report further states that work performed beyond the working time standards applicable to the maritime worker, as well as work performed beyond the extended working hours is considered overtime and is authorised in case of the ship's operational needs; the need to ensure the safety of the ship, the passengers or the cargo, or in the context of assistance to other ships or persons in distress at sea. Overtime hours may not exceed 140 hours over a 30-day period. The records of each maritime worker's working hours and rest periods are kept and made public. Directors of maritime authorities carry out inspections of ships, including the monitoring of working hours.

The report also states that the working hours on drilling or production platforms, as well as on specialised technical vessels may be increased to 14 hours a day and 84 hours a week. In this case, the worker is entitled to at least an equal period of shore leave after each period of continuous work not exceeding two weeks.

The report also states that weekly working hours on inland waterway vessels are governed by the Act of 7 April 2017 on working time on inland waterway vessels which implements the Council Directive 2014/112/EU of 19 December 2014 implementing the European Agreement concerning certain aspects of the organisation of working time in inland waterway transport, concluded by the European Barge Union (EBU), the European Skippers Organisation (ESO) and the European Transport Workers' Federation (ETF). Working hours on an inland waterway vessel may not exceed eight per day and an average of 40 per week over a 12-month reference period, while working hours including overtime may not exceed 48 hours per week. Working hours may not exceed 14 hours in any 24-hour period or 84 hours in any seven-day period. The law takes account of the seasonal nature of work on inland waterway passenger vessels and such seasonal hours, including overtime, may not exceed 12 per 24-hour period and 72 hours per seven-day period. To protect the workers' health and safety, a record of working hours must be kept.

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 XXIII-1, Statement of Interpretation on Article 2§1 on working time of maritime workers).

The Committee notes, however, that in case of drilling and production platform workers and of inland waterway vessel workers the weekly working hours can be longer than for maritime workers and they are excessive. The Committee therefore considers that the situation in Poland is not in conformity with Article 2§1 of the 1961 Charter on the ground that the maximum weekly working time of workers on inland waterway vessels and those on drilling and production platforms can reach 84.

Law and practice regarding on-call periods

In its previous conclusion (Conclusions XXII-3), the Committee held that the situation in Poland was not in conformity with Article 2§1 of the Charter on the ground that on-call periods where no effective work was performed were considered as rest 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.

The report states that for on-call time, a worker is entitled to time off corresponding to the duration of the on-call period or, if is not possible, to remuneration corresponding to their salary resulting from their personal classification or, if this remuneration element has not been

specified when determining the remuneration conditions, to 60% of the remuneration. No compensation is paid for on-call time at home if no work has been done.

The report provides some decision of the Supreme Court where the latter held that on-call duty is part of worker's obligations, that refusal to work on-call must be justified and that with regard to on-call duty at home, no rights other than the right to rest are provided. On-call time during which work has not been carried out is not working time. Hours actually worked are treated as overtime.

In its comments, the OPZZ states that, according to the Government, the lack of compensation for on-call duty performed at home, if no work is carried out, results from the legislator's assumption that such duty is significantly less burdensome for the worker due to the location in which the work is performed. In the OPZZ's view, this position is overly optimistic in light of the actual limitations associated with so-called "home-based on-call duty". On-call duty, as an additional requirement of availability beyond regular working hours is a common practice in sectors such as energy, utilities, telecommunications, electronic banking and many other areas of the economy. In practice, the question arises whether on-call duty at home can genuinely be classified as free time. This doubt stems from the fact that, during such duty, a worker may be called to the workplace at any moment, thus limiting their freedom. When a worker's freedom to dispose of their time is restricted, it is difficult to consider such time as rest 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 XXIII-1, Statement of Interpretation on Article 2§1 on on-call periods).

The Committee considers that the situation in Poland is not in conformity with Article 2§1 of the 1961 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 Poland is not in conformity with Article 2§1 of the 1961 Charter on the grounds that:

- the maximum weekly working time may exceed 60 hours for workers responsible for surveillance of property or protecting people, members of fire departments and company's emergency services, healthcare workers and workers who manage the company on behalf of the employer;
- the maximum weekly working time of workers on inland waterway vessels and those on drilling and production platforms can reach 84;
- 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 Poland.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 3§1 of the 1961 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.

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.

The report notes that Poland does not have regulations on the right to disconnect, However, it refers to regulations concerning working time, including overtime, and on the prohibition on mobbing.

The Committee recalls that, consistent with States Parties' obligations under Article 3§1 of the 1961 Charter, 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 Poland is not in conformity with Article 3§1 of the 1961 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 provides information that previously enabled the Committee to conclude that the situation in Poland was in conformity with the Charter on this point (Conclusions XXI-2 (2017)). Specifically, employers are required to ensure safe and healthy working conditions for workers who pursue an individual economic activity on their own account at the site or another location stipulated by the employer. Moreover, self-employed workers are required to comply with health and safety regulations when a company hires their services.

Teleworkers

The report notes that teleworkers are protected by occupational health and safety regulations, which have specific provisions on risk assessment; employers' obligations to provide appropriate information, training, and suitable work equipment; supervision and monitoring; and exclusions for dangerous work, among other measures.

Domestic workers

The report notes that there is no legal definition of “domestic work” in Poland. Formally employed domestic workers may be engaged under an employment contract, a civil-law service contract, or as self-employed. Each of these categories determines coverage under occupational health and safety regulations. The Committee notes from other sources that a significant share of domestic workers in Poland, estimated at 160,000 to 170,000 workers, are undeclared and therefore not covered by labour protection legislation (Chłoń-Domińczak, A., Sowa-Kofta, A., Szarfenberg, R. (2024). *Access for domestic workers to labour and social protection – Poland*. European Social Policy Analysis Network, Brussels: European Commission). The Committee also 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 Poland is not in conformity with Article 3§1 of the 1961 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 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 and provides references to the relevant provisions of domestic law.

Conclusion

The Committee concludes that the situation in Poland is not in conformity with Article 3§1 of the 1961 Charter on the grounds that:

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

Article 3 - Right to safe and healthy working conditions

Paragraph 2 - Enforcement of safety and health regulations

The Committee takes note of the information contained in the report submitted by Poland and in the comments by the All-Poland Alliance of Trade Unions (the OPZZ).

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to targeted questions for Article 3§2 of the 1961 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 indicates that, under the Law on National Labour Inspectorate of 13 April 2007, employers are subject to inspections in the field of health and safety at work. It also notes that the self-employed and other organisational units for which work is provided by natural persons, including self-employed persons, are also subject to inspection, regardless of the basis on which the work is provided.

The inspection is carried out at the premises of the inspected entity and at other locations where work is performed or where financial and personnel documents are kept. Some inspection activities may also be carried out at the premises of the organisational unit of the National Labour Inspectorate.

Domestic workers

The report notes that the category of “domestic workers” is not defined in the Polish legal system. It also notes that Poland has not ratified ILO Convention 189 on domestic workers. It further states that the general labour regulations apply to persons performing this type of work. Domestic workers may work under an employment contract, a civil law contract or as self-employed. The specific status of persons performing domestic work will determine the scope of their occupational health and safety coverage. The report states that the labour inspectors are not authorised to carry out inspections in private houses and apartments, since Article 50 of the Constitution guarantees the inviolability of home, which also stems from respecting the right to privacy guaranteed by Article 47 of the Constitution.

The Committee notes from other sources that a significant share of domestic workers in Poland, estimated at 160,000 to 170,000 workers, are undeclared and therefore not covered by labour protection legislation (Chłoń-Domińczak, A., Sowa-Kofta, A., Szarfenberg, R. (2024). *Access for domestic workers to labour and social protection – Poland*. European Social Policy Analysis Network, Brussels: European Commission.). The same source indicates that there are potential difficulties related to controlling the work conditions of domestic workers. The Committee also refers to its Conclusion on Article Article 3§1 of the 1961 Charter where it concluded that the situation in Poland is not in conformity with Article 3§1 of the 1961 Charter on the ground that certain categories of domestic workers are not protected by occupational health and safety regulations.

The Committee concludes that the situation in Poland is not in conformity with Article 3§2 of the 1961 Charter on the ground that measures have not been taken to ensure the supervision of the implementation of health and safety regulations concerning domestic workers.

Digital platform workers

The report provides no information on this point. The Committee concludes that the situation in Poland is not in conformity with Article 3§2 of the 1961 Charter on the ground that it has not been established that measures have been taken to ensure the supervision of the implementation of health and safety regulations concerning digital platform workers.

Teleworkers

The report provides detailed information on employers' obligations regarding health and safety in the context of teleworking such as: (i) provide the teleworker with the necessary equipment and work tools; (ii) ensure the installation, servicing, operation and maintenance of work tools and technical equipment or cover the costs necessary for their installation, servicing, operation and maintenance; (iii) cover the costs of electricity and telecommunication services necessary for the performance of remote working; (iv) provide the remote worker with the training and technical assistance required.

The report indicates that the National Labour Inspectorate carries out inspections to assess the degree to which employers comply with teleworking regulations. It notes that in cases of teleworking, the National Labour Inspectorate is only permitted to inspect the employer's premises, not the worker's home where teleworking is performed. The report notes that in 2023 and 2024, the National Labour Inspectorate, in addition to conducting inspections following workers' complaints, also carried out scheduled inspections to check employers' compliance with telework requirements. In 2023, interventions prompted by workers' complaints accounted for 10% of all inspections related to remote working.

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

In response to a request for additional information, the report states that experts from the National Labour Inspectorate provided support for the implementation of the IMI-Prove programme in 2024, which aims to improve the functioning of the internal market information

exchange system through the detailed analysis of the questions posed in requests for information on posting.

Other labour inspection activities included the continuation of the “Euro Posting” project. This involved exchanges with the Norwegian labour inspectorate through study visits to Norway and hosting a Norwegian delegation in Poland. There was also multilateral cooperation led by the French inspectorate with several EU countries. This resulted in an information brochure for posted workers in France and a joint training workshop with the German NGO *Arbeit und Leben*.

Workers employed through subcontracting

The report provides no information on this point. The Committee concludes that the situation in Poland is not in conformity with Article 3§2 of the 1961 Charter on the ground that it has not been established that measures have been taken to ensure the supervision of the implementation of health and safety regulations concerning workers employed through subcontracting.

Self-employed workers

The report notes that the Labour Code imposes an obligation on employers to ensure safe and healthy working conditions for individuals who carry out work in a company or at a location designated by the employer on a basis other than an employment relationship, as well as for self-employed individuals working in a company or at a location designated by the employer. The report specifies that health and safety obligations apply *mutatis mutandis* to contractors who are not employers and who organise the work of natural persons on a basis other than an employment relationship, as well as to self-employed workers.

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

The report provides information on the employer’s obligations to protect workers against dust and chemical compounds in the open air found in smog, such as by providing protective equipment. The report provides further information on the employer’s obligations concerning the performance of work involving exposure to environmental factors. These obligations include for example: (i) organising outdoor workplaces so as to protect workers against the risks associated with atmospheric conditions, including precipitation, low or high temperatures, strong winds; (ii) supplying free beverages to workers in hot microclimates characterised by a WBGT (Wet Bulb Globe Temperature) above 25°C, as well as for outdoor work in temperatures above 25°C and in other workplaces where the temperature exceeds 28°C; (iii) fitting windows and skylights with appropriate devices to eliminate excess sunlight on workstations; (iv) providing air-conditioned resting places for workers in premises where the temperature is permanently above 30°C.

The report notes that analytical work is underway to prepare regulations protecting workers from high temperatures in the workplace. The Committee takes note of the comments of OPZZ which draw attention to the absence of a legal maximum workplace temperature in Poland, despite the increasingly frequent occurrence of extreme heat reaching 35 - 37°C in many regions. OPZZ considers it urgent for the Government to adopt OHS regulations setting maximum permissible temperatures and defining additional employer obligations to protect workers.

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 Poland is not in conformity with Article 3§2 of the 1961 Charter on the grounds that:

- measures have not been taken to ensure the supervision of the implementation of health and safety regulations concerning domestic workers;
- it has not been established that measures have been taken to ensure the supervision of the implementation of health and safety regulations concerning:
    - digital platform workers;
    - workers employed through subcontracting.

Article 4 - Right to a fair remuneration

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

The Committee takes note of the information contained in the report submitted by Poland.

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.

The Committee notes that according to Article 183c of the Labour Code employees have the right to equal remuneration for the same work or for work of an identical value. Work of an identical value means work that demands from employees not only comparable professional qualifications, certified by documents provided for in separate provisions or by practice and professional experience, but also comparable responsibility and effort.

The report states that according to the Labour Code remuneration for work must be set in such a way that corresponds to the type of work performed and the qualifications required for its execution and takes into account the quantity and quality of the work performed. Workers are entitled to equal pay for equal work or work of equal value. Work of equal value is work which requires workers to have comparable professional qualifications, as documented by specific regulations or by professional practice and experience, as well as comparable responsibilities and efforts. According to the report, this approach is well established in case law (Supreme Court order of March 14, 2018, case II PK 125/17).

The Committee notes from the Country Report of the European Network of Experts on Gender Equality and non-Discrimination (2024) on Gender Equality and non-Discrimination that the regulation contained in Article 183c(2) of the Labour Code concerning the definition of work of equal value is based on objective criteria.

The Committee further notes that in a ruling of 11 October 2013 (III PK 28/13), the Supreme Court clarified what permissible reasons there are for wage differentiation, stating that equal (identical) work is work of the same nature, the same with regard to the qualifications required to perform it, the conditions under which it is performed and the quantity and quality of the work. Work that is equal (identical) in terms of the type (nature) and qualifications required to perform the same work in the same positions with the same employer may differ in quantity and quality, and in this case does not constitute work that is equal (identical) within the meaning of Article 183c(1) of the Labour Code. The quantity and quality of work performed constitute acceptable premises for wage differentiation.

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, the most commonly used remuneration systems are the temporary system with a monthly or hourly rate, the commission system, the task-based system, and the piecework system. The employer may apply one of these systems to all workers or some, depending on the type of work performed, the jobs held, the required qualifications, and the quality and quantity of the work performed. The rules for worker compensation must be defined in collective agreements, compensation regulations, and employment contracts. When creating and implementing a remuneration system, the employer is required to respect the principle of equal treatment in employment, including equal treatment in terms of remuneration. Provisions in employment contracts and other instruments establishing the employment relationship that violate the principle of equal treatment in employment are null and void.

According to the Labour Code, the employment contract specifies the parties to the contract, the type of contract, the date of its conclusion, and the working and remuneration conditions, including the remuneration for the work corresponding to the type of work, with an indication of the elements of remuneration. The method of determining the amount of remuneration and its components is left to the discretion of the parties, unless otherwise provided for by wage legislation (e.g., collective bargaining agreement, remuneration regulations).

According to the Country Report the European Experts on Gender Equality and non-Discrimination (2024) many theoretical and more or less general and sophisticated manuals instructing how to make job evaluations by using different methods, written by different experts, are available in Poland. However, no examples of job classification systems being used in concrete situations can be identified as good practices. The same may be said in relation to the private sector.

The problem of comparing work of equal value was tackled by ruling of the Supreme Court in its ruling of 9 February 2007 (I PK 222/06), according to which the lack in many enterprises of a system of occupational classifications for the purpose of determining remuneration, as well as the lack of a universal system for evaluating work and establishing criteria allowing for comparison of various kinds of work, caused difficulties in claiming damages resulting from wage discrimination in cases of work of similar value.

The Committee considers that while some progress has been achieved in this area, it has not been established that job classification and evaluation systems effectively applied are in practice. Therefore, the situation is not in conformity with the Charter.

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 notes that the gender pay gap stood at 6.5% in 2019 and at 7.8% in 2023. The Committee notes that despite the fact that the gender pay gap is well below the EU average, it has increased between 2019 and 2023 and no measurable progress was made. Therefore, the situation is not in conformity with the Charter.

Conclusion

The Committee concludes that the situation in Poland is not in conformity with Article 4§3 of the 1961 Charter on the grounds that:

- it has not been established that job classification and evaluation systems are effectively applied in practice.
- no measurable progress was made in reducing the gender pay gap.

Article 5 - Right to organise

The Committee takes note of the information contained in the report submitted by Poland as well as the comments submitted by All Poland Alliance of Trade Unions.

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, the Trade Union Act was amended in 2018. According to the current wording of the act, the right to form and join trade unions is granted to persons engaged in paid employment. This includes workers and individuals performing work for remuneration outside an employment relationship, provided they do not employ others for that work and have rights and interests related to the performance of the work that can be represented and defended by a trade union. Therefore, the amendment to the law has extended the circle of persons entitled to form and join trade unions to cover those employed under civil law contracts including platform workers as well as sole traders (also known as self-employed workers).

The Committee takes note of the submissions by the All Poland Alliance of Trade Unions according to which in practice employers often demand complete documentation related to the establishment of trade union and otherwise they refuse the recognition of the trade union within that workplace. Concerning platform workers, the Committee further notes from outside sources (Institute for European Policy, Mapping Platform Work in Poland, 2025) that currently there is a debate on platform work in Poland, focusing on regulations, employment conditions and the protection of workers' rights. On 25 September 2024, an open discussion was organised by the Federation of Polish Entrepreneurs to discuss the potential consequences of introducing the EU Directive on Platform Work into the Polish labour market, including the possibility of introducing an entrepreneur test and a presumption of an employment relationship. This could affect the relations between platforms and people providing services through them.

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 indicates that in accordance with the Act on the Social Dialogue Council and other social dialogue institutions, the employers' representatives at the Council are chosen from among the members of recognised employers' organisations. These organisations are considered representative if they meet the following criteria: - they bring together employers, employing a total of at least 300 000 people engaged in professional activities (approximately, 0.17% of the total workforce);- they bring together employers whose principal economic activities cover at least half of the sections listed in the Polish Classification of Activities;- include regional cross-sectoral employers' organisations among their members.

For the purpose of establishing the numerical criterion, when the activity of a company corresponds to a section of the Polish Classification of Activities, all persons performing paid

work are assigned to that section. When the activity of a business covers several sections of the classification, all persons engaged in paid activity are assigned to the section corresponding to the company’s main activity. A maximum of 100 000 persons engaged in paid work in a given section is taken into account.

Representativeness is established by the District Court in Warsaw within 30 days of a request from employers' organisations. The employers' organisations may invite representatives of organisations that do not meet the above criteria, as well as representatives of socio-professional organisations, to participate in the work of the Social Dialogue Council in an advisory capacity.

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 employee representatives (targeted question c)).

In its reply, the report indicates that national trade unions, national trade union federations and national trade union confederations that meet the following criteria are considered representative trade union organisations:- they have more than 300,000 members who are engaged in paid employment as defined in the Trade Unions Act;- they operate in economic entities whose principal activities cover more than half of the sections listed in the Polish Classification of Activities;

The report indicates that the Warsaw District Court establishes representativeness by issuing a decision within 30 days of the trade unions' request.

As for minority trade unions, the report states that trade union organisations that do not meet the above criteria, as well as representatives of socio-professional organisations, may be invited by the workers' side to participate in the Council's work in an advisory capacity. If none of the company trade unions meet these conditions, the representative company trade union is the one with the largest number of members in paid employment with the employer.

The report, in addition, indicates that, regardless of its representativeness, any trade union organisation with the status of a company trade union organisation is granted several rights including, for instance, taking a position on labour law issues concerning individual workers, as well as issues relating to the performance of paid work, raising reasoned objections to the termination of workers' employment, taking a position vis-à-vis the employer on issues concerning the collective interests and rights of persons engaged in paid employment, or ensuring compliance with labour law provisions at the workplace, particularly those relating to health and safety.

According to the report, trade unions have the right to influence the drawing up of internal company rules. If there are trade unions at company level, the adoption of internal company rules is carried out in consultation with these organisations, on issues such as remuneration regulations, the company's social welfare fund regulations, the list of work carried out by night workers, the individual work schedule of drivers.

The right of the police and armed forces to organise

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

According to the report, the Law of 11 March 2022 on Homeland Defence establishes a general ban on the formation of trade unions and the association of career soldiers in trade

unions. However, the report states that the defence of the rights of career military personnel must be ensured by the representative bodies of the various professional corps of the armed forces. The procedures for the functioning of the representative bodies of career military personnel, the conditions for their organisation, functioning and election, the tasks and powers of the representative bodies, and the forms of cooperation with the commanders of military units are defined in the regulations of the Minister of Defence of 12 January 2024 on the representative bodies of career military personnel.

The Committee considers that the complete suppression of the right to organise (which involves freedom to establish organisations/trade unions as well as the freedom to join or not to join trade unions) is not a measure which is necessary in a democratic society for the protection of, inter alia, national security (see Confederazione Generale Italiana del Lavoro (CGIL) v. Italy, Complaint No. 140/2016, decision on the merits of 22 January 2019, §92).

According to the report, the main task of the representative bodies of career military personnel includes defending the rights of these personnel in the relevant corps and the military community within the military unit, including representing the interests of career military personnel to their superiors; presenting opinions and proposals concerning command and human relations, conditions of service, and the social situation of career military personnel; professional and personal issues affecting career military personnel; and presenting issues that negatively affect the morale of career soldiers to superiors and the senior officer.

The Committee notes, from outside sources (Handbook on Human Rights and Fundamental Freedoms of Armed Forces Personnel, OSCE/ODIHR) that Ministry of Defence decisions from 1994 allow for meetings of officers at all levels and for the election of commissioners to act as advocates for soldiers' interests (Decisions No. 81 and 82 of 22 August 1994). In 2000, the Constitutional Tribunal ruled that a ban on membership of trade unions in the military was constitutional provided there were alternative means of exercising the right to freedom of association (decision of 7 March 2000). Also, the Act on Military Service of Professional Soldiers (11 September 2003) allows professional soldiers to form representative bodies under regulations issued by the Ministry of Defence and establishes a consultative council (the Council of Senior Officers of the Corps of Professional Soldiers).

The Committee understands from the available information that the representative bodies of the various professional corps of the armed forces are specifically working on the professional situation and working conditions of military personnel.

Concerning the police forces, in accordance with the legal provisions on the Police and Border Guards, police officers and border guards may join trade unions. The detailed principles of cooperation between the trade union and the Minister responsible for internal affairs, the Chief Commander of the Police, the Police Commanders, the Commander-in-Chief of the Border Guards and the Border Guard units must be laid down in the statutes of the trade union registered with the court or in an agreement concluded with the Minister responsible for internal affairs or the Commander of the Police or the competent Border Guard authority.

Any police officer or border guard holding a position for which the law provides for an appointment, as well as any officer appointed to the position of director of an organisational unit, deputy director of an organisational unit or head of a section, may not hold office in a trade union. Civil servants in the Police and Border Guard have the right to form and join trade unions in accordance with the Trade Unions Act of 23 May 1991. However, members of the civil service holding senior positions, such as the head of a department or the equivalent unit within a ministry, may not perform trade union functions.

Conclusion

The Committee concludes that the situation in Poland is in conformity with Article 5 of the 1961 Charter.

Article 6 - Right to bargain collectively

Paragraph 1 - Joint consultation

The Committee takes note of the information contained in the report submitted by Poland and in the comments submitted by the All-Poland Alliance of Trade Unions (OPZZ).

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 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.

According to the report, social partners are consulted on the development and implementation of economic, employment and social policies in various ways and at various levels.

At national level, consultation takes place within the Social Dialogue Council (SDC). The SDC operates under the Act of 24 July 2015 on the SDC and the other social dialogue institutions. From 15 July 2024, the SDC will comprise representatives of three representative trade union organisations and six representative employer organisations.

The SDC engages in dialogue to ensure conditions conducive to social and economic development, boost economic competitiveness and social cohesion, and implement the principles of social participation and solidarity in labour relations. The Council's activities seek to enhance the formulation and implementation of socio-economic policies and strategies, fostering public consensus. This is achieved through transparent, substantive and regular dialogue between trade unions, employers' organisations and the government.

The report further states that the law of 7 April 2006 on employee information and consultation and the law of 5 April 2002 on European works councils provide additional solutions for involving employees in company management. The information and consultation mechanisms based on the law of 7 April 2006 apply to employers carrying on an economic activity and employing at least 50 workers. The law provides for a permanent and general system of information and consultation, it being understood that the creation of a workers' council is based on a request from the workers. In Poland, 3,720 entities have reported the creation of works councils and there are two European works councils.

According to another source consulted by the Committee, at regional level, regional social dialogue councils (*wojewódzkie rady dialogu społecznego*) act as tripartite social dialogue institutions and play a consultative role on issues of interest to the social partners at local level (Eurofound, Working life in Poland, 1 June 2024, Tripartite and bipartite bodies and consultation).

According to comments submitted by the OPZZ, dialogue in the SDC has recently been neither satisfactory nor constructive. Many meetings of the SDC’s problem-solving teams were held without the presence of government representatives, and key legislative or regulatory proposals were often not subject to consultation at all or were transmitted to the SDC with significant delay, at a stage when the consultation process no longer had any meaningful impact on the substance of the proposed legal act.

In reply to similar concerns raised by Solidarnosc, the Polish Government informed the CEACR that the National Recovery and Resilience Plan includes plans to amend the rules and regulations of the Sejm, Senate and the Council of Ministers, with the aim of increasing social consultations. Such amendments are expected to include the introduction of mandatory

impact assessments and public consultations for draft acts submitted by Members of Parliament and Senators, to ensure a more structured involvement of stakeholders and experts in the law-making process and the restriction of accelerated procedures to strictly defined and exceptional cases (Direct Request (CEACR) - adopted 2024, published 113rd ILC session (2025) *C144 - Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)* - Poland).

In light of the above, the Committee considers that it has not been established that the Government sufficiently promotes joint consultations within the framework of the SDC.

Matters of mutual interest on which joint consultations and agreements have been adopted

In a targeted question, the Committee asked as to what issues of mutual interest have been the subject of joint consultation over the past five years, what agreements have been adopted as a result of such discussions and how these agreements have been implemented.

The report describes the tasks entrusted to the SDC, including expressing opinions and views on draft laws, budget plans, draft programmes and strategies, initiating the legislative process, participating in the determination of average annual indicators for wage, minimum wage and pension increases for the following year, as well as income criteria in the social assistance system.

According to the report, the issues discussed within the SDC were: energy security, the labour market, challenges and opportunities for adopting solutions to support the market for care services for the elderly, updating the National Energy and Climate Plan 2030, energy transition, the Covid-19 pandemic, the National Recovery Programme, employment of foreigners and the consequences of Russia's aggression against Ukraine.

Joint consultation on the digital and the green transition

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

Digital transition

According to the report, the following consultations took place on policy documents and statements:

- 2023 Draft national action plan for the policy programme "Towards the digital decade 2030" ;

- 2024 - as part of the work on the Digital State: Cybersecurity, New Technologies, Digital Skills and Human Resources, Connectivity and Data strategies.

In addition, the Minister for Digitisation has launched consultations with the social partners, notably on the draft amendments to the law on support for the development of telecommunications services and networks, the regulation adapting the telecommunications infrastructure to the growing needs of the information society, and the regulation on telecommunications investment funds.

In 2023 and 2024, the draft law amending the law on the computerisation of the activities of entities performing public tasks, the draft law amending the law on the provision of services by electronic means and certain other laws, the draft law on data governance, as well as the draft regulation under the European Funds programme for digital development 2021-2027 were the subject of public consultations.

Between 2022 and 2024, the Ministry for Digitisation has conducted a public consultation aimed at defining the conditions for public intervention in the development of broadband infrastructures. Sector organisations and representatives of telecommunications companies were invited to contribute.

Green transition

According to the report, the Ministry of Climate and Environment is working on a strategic action plan for environmental education, to be adopted as part of the "State Environmental Policy 2030 - Development Strategy for the Environment and Water Management". Some sixty institutions, non-governmental organisations, social movements, teachers' and education workers' unions, employers' unions and associations, local authorities and representatives of the scientific community took part in the work on the document (consultation on the draft guidelines).

At the meeting of the Presidium of the SDC in January 2022, the situation of households and entrepreneurs faced with rising electricity and gas prices was discussed, and the protective measures put in place by the government were presented. The SDC also discussed the energy transition. In July 2022, the plenary meeting of the SDC was devoted to the government's presentation of the changes in climate and energy policy resulting from the consequences of Russia's aggression against Ukraine, and to an examination of the state of renewable energies, climate and energy policy in this context. The issue of the energy transition, including the government's 2022 programme "Support for energy-intensive sectors in the event of sudden increases in gas and electricity prices", was discussed at meetings of the SDC's economic policy and labour market team.

In April 2024, an update to the National Energy and Climate Plan for 2030 was presented to the Social Dialogue Council. The document outlines national climate and energy policy objectives and the policies and actions required to achieve them. In May 2024, the main changes resulting from the update to the 'Polish Energy Policy until 2040', which was adopted by the Council of Ministers in March 2022, were presented to the Social Dialogue Council. During the meeting, it was stated that the government was working on revising the energy policy to adapt it to the new situation. The Council of Ministers adopted the document "Transformation of the electricity sector in Poland". In 2024, a sub-team dedicated to fair transformation was established within the Economic Policy and Labour Market division of the Social Dialogue Council.

The issue of energy transition was also discussed at meetings of the tripartite teams responsible for the energy and lignite industries, social security for miners, and social conditions relating to the restructuring of the steel industry.

Conclusion

The Committee concludes that the situation in Poland is not in conformity with Article 6§1 of the 1961 Charter on the ground that it has not been established that joint consultations have been sufficiently promoted.

Article 6 - Right to bargain collectively

Paragraph 2 - Negotiation procedures

The Committee takes note of the information contained in the report submitted by Poland and of the comments submitted by the All-Poland Alliance of Trade Unions.

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 1961 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.

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 *erga omnes* clauses and other extension mechanisms, the report states that, upon joint request by employers' organisations and trade union organisations having concluded a multi-employer (sectoral) collective agreement and in case of pressing social interest, the Minister of Labour may extend the application of that agreement or parts thereof, to workers and employers not covered by it, but engaged in an identical or similar economic activity. This extension is subject to consultation with the employer or employers' organisation and the trade union which represents the workers concerned. However, the report also notes that, while enterprise and multi-employer agreements are allowed, the law does not provide for the possibility to conclude collective agreements that would be binding on all enterprises in a specific sector.

Regarding the favourability principle and derogations, the report notes that the provisions of a collective agreement concluded at the enterprise level may not be less favourable to workers than those of the corresponding multi-employer (sectoral) level collective agreement. Moreover, the provisions of collective agreements, other collective arrangements, and statutes must not be less favourable to workers than those prescribed by the law.

The Committee notes that that the favourability principle establishes a hierarchy between different legal norms and between 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 1961 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 31 of the 1961 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 obstacles to collective bargaining stem from both practice and legislation. At the practical level, the report refers to the low rates of unionisation, the weak presence of trade unions at enterprise-level, trade union fragmentation and competition, lack of institutional capacity for engaging in collective bargaining, the limited representativeness of employers' organisations, and enterprise heterogeneity. Nonetheless, the social partners often engage in consultation resulting in the conclusion of various agreements, including on the question of wages, which, however, does not have the characteristics of collective bargaining.

At the legislative level, the Trade Union Act was amended in 2018 to broaden the existing definition of "worker" by including persons working under civil law contracts and the self-employed. However, the impact of this amendment on extending the scope of collective bargaining remains to be seen. There is no legal obligation to engage in collective bargaining on a regular basis, and procedural hurdles, such as lengthy registration requirements and fears of annulment, discourage participation. Moreover, labour law is extensively codified, leaving little scope for collective agreements to establish conditions more favourable than those set by statute. The report further indicates that several procedures exist with the object of regulating employment conditions, thereby rendering collective bargaining largely superfluous. The report also notes that, although social partners enjoy autonomy in shaping the content of agreements, the absence of standardised templates may prove challenging to conducting collective bargaining in practice.

The report further notes that, under the National Recovery and Resilience Plan, consultations with social partners were held to assess the state of collective bargaining, resulting in an expert report and reform recommendations. Moreover, work is underway on a draft Act on Collective Labour Agreements and Collective Arrangements that seeks, among others, to ease the bureaucratic burden associated with negotiating and registering collective agreements, thereby ensuring compliance with the EU Directive on Adequate Minimum Wages.

In its comments, the All-Poland Alliance of Trade Unions expresses several concerns as regards the operation of collective bargaining in Poland. First, the Alliance notes that employers often challenge trade union requests for information, claiming that the information is not necessary for the union's statutory activity, or invoking business secrecy or confidentiality. The scope of information considered confidential is too broad, and the sanctions imposed for unauthorised disclosure are excessive. The Committee recalls that collective bargaining presupposes that the social partners engage in genuine and constructive negotiations with a view to reaching an agreement (Conclusions 2022, Romania). Accordingly, States should encourage the social partners to share the information necessary to make informed decisions on the issues at stake, with due regard to any confidentiality concerns. Second, the Alliance raises several concerns as regards collective bargaining in the public sector. The Committee has previously examined the arrangements in question and found them to be in conformity with Article 6§2 of the 1961 Charter (Conclusions XVIII-1 (2006) and XIX-3 (2010)). The present submission does not contain sufficient information to call those findings into question. Finally, the All-Poland Alliance of Trade Unions considers that the draft Act on Collective Labour Agreements and Collective Arrangements referenced by the Government

does not contain measures that would meaningfully improve collective bargaining and that in any event work on the draft has stalled.

The Committee notes, based on other sources, that collective bargaining in Poland mostly takes place at enterprise level (Eurofound (2024). *Working life country profile: Poland*). However, even at this level, collective bargaining is hampered by low unionisation rates, whereas employers increasingly rely on pay regulations or individual employments contracts for wage-setting purposes. Collective agreements at the sectoral level are very rare and their number is decreasing. At the national level, some consultation on wage-setting takes place before the Social Dialogue Council (*Rada Dialogu Społecznego*), a tripartite body. Poland has the lowest collective bargaining coverage rate in the EU of around 15%. The Committee further notes that, given the low levels of collective bargaining across all sectors of the economy and the high degree of decentralisation of the collective bargaining system, different bargaining levels remain poorly articulated with each, while the legal mechanisms for extending collective agreements have little practical significance. The Committee therefore concludes that the situation in Poland is not in conformity with Article 6§2 of the 1961 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 employees, to bargain collectively.

The report states that, following a 2018 amendment to the Act on Trade Unions of 23 May 1991, the category of persons entitled to form and join trade unions was extended. This includes those working under civil law contracts (such as mandate or specific-task contracts) and self-employed persons. These groups are now permitted to participate in collective bargaining and to conclude collective agreements. However, to date, no multi-employer collective agreement covering self-employed workers has been submitted for registration.

Conclusion

The Committee concludes that the situation in Poland is not in conformity with Article 6§2 of the 1961 Charter on the ground that the promotion of collective bargaining is not sufficient.