



March 2018

European Social Charter

European Committee of Social Rights

Conclusions 2018

CYPRUS

This text may be subject to editorial revision.

The following chapter concerns Cyprus which ratified the Charter on 27 September 2000. The deadline for submitting the 13th report was 31 October 2017 and Cyprus submitted it on 14 November 2017.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report concerns the following provisions of the thematic group "Labour Rights":

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

Cyprus has accepted all provisions from the above-mentioned group except Articles 2§4, 4§1, 4§2, 4§3, 4§4, 21 and 26.

The reference period was 1 January 2013 to 31 December 2016.

The conclusions relating to Cyprus concern 15 situations and are as follows:

- 9 conclusions of conformity: Articles 2§2, 2§5, 2§6, 2§7, 5, 6§1, 6§3, 22 and 28;
- 4 conclusions of non-conformity: Articles 2§1, 2§3, 4§5 and 6§4.

In respect of the 2 other situations related to Articles 6§2 and 29, the Committee needs further information in order to examine the situation. The Committee considers that the absence of the information requested amounts to a breach of the reporting obligation entered into by Cyprus under the Charter. The Committee requests the authorities to remedy this situation by providing the information in the next report.

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The next report to be submitted by Cyprus will be a simplified report dealing with the follow up given to decisions on the merits of collective complaints in which the Committee found a violation.

The deadline for submitting that report was 31 October 2018.

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Conclusions and reports are available at www.coe.int/socialcharter as well as in the HUDOC database.

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 Cyprus.

The Committee previously deferred its conclusion (Conclusions 2014) and asked under what circumstances and for which categories of employees may the working hours in one week, including overtime, exceed 60 hours.

In reply, the report states that pursuant to Working Time Laws of 2002 to 2007 weekly working hours should not exceed the limit of 48 hours, including overtime. Nevertheless, working hours can exceed this limit upon the consent of the employee and on condition that general rules of safety and health in the workplace are applied, that the employee does not have any consequences if he/she refuses, that the employer maintains and updates an archive for all workers who consent to overtime work, which should be available to the competent authorities that have the right to forbid or restrict the exceedance of weekly working hours, and that the employer provides, upon request, to the competent authorities information on the employee's consent. The report does not indicate any limit applicable in this situation. The Committee, accordingly, concludes that the situation is not in conformity with Article 2§1 of the Charter on the ground that weekly working time for employees who consent to work more than 48 hours per week may exceed 60 hours.

In addition, the report indicates that the provision establishing the limit of 48 working hours per week, is not applicable to certain categories of employees, namely to employees whose working hours cannot be calculated or predetermined or are determined by employees themselves, executives or persons authorized to make decisions, to employees who are family members and to persons working in the ritual sector of churches and religious communities. There is no limit established to weekly working time for these categories of employees. The Committee, therefore, concludes that the situation is not in conformity with Article 2§1 of the Charter on the grounds that weekly working time for these categories of employees may exceed 60 hours.

In its previous conclusion (Conclusions 2014), the Committee asked what rules apply to on-call service and whether inactive periods of on-call duty are considered as a rest period in their entirety or in part. In reply to the Committee's question the report states that specific regulation for on-call service is not established. The Committee asks the next report to provide information on rules applied in practice as regards on-call service.

In reply to the Committee's question on violations of working time regulations identified by the Labour Inspectorate, the report indicates that in 2017 there were 21 cases regarding working time violations before the Courts (outside the reference period). The Committee asks that the next report provides updated information regarding the violations of working time regulations identified by the Labour Inspectorate during the reference period.

The Committee notes from EUROSTAT data that the number of hours worked per week by full-time employees fell slightly from 42.5 in 2013 to 42.2 in 2016.

Conclusion

The Committee concludes that the situation in Cyprus is not in conformity with Article 2§1 of the Charter on the ground that weekly working time for some categories of employees may exceed 60 hours.

Article 2 - Right to just conditions of work

Paragraph 2 - Public holidays with pay

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

In its previous conclusions (Conclusions 2014) the Committee held that the situation was in conformity with Article 2§2 of the Charter and asked whether the amendments that took place in October 2013 concerning the legislation governing the shop opening hours, had affected the rules concerning public holidays.

In reply, the report states that according to Law No. 70 of 2015, which amended public holidays as regards shop assistants, Easter Sunday is a public holiday for shop assistants who are employed in shops that operate on Sundays.

Conclusion

The Committee concludes that the situation in Cyprus is in conformity with Article 2§2 of the Charter.

Article 2 - Right to just conditions of work

Paragraph 3 - Annual holiday with pay

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

The Committee previously deferred its conclusion (Conclusions 2014) and asked the next report to confirm, in the light of the relevant provisions, that annual leave may not be replaced by financial compensation and that employees do not have the option of giving up their annual leave.

In reply, the report indicates that all employees are entitled to at least four weeks of annual paid leave. The only case, in which a replacement of the annual leave by financial compensation can occur, is that of termination of employment. In case of violation of the aforementioned right, sanctions are provided, which include imprisonment of the employer or a fine amounting to € 3.400 or both. The report provides no information on whether employees have the option of giving up their annual leave. The Committee, therefore, reiterates its question.

In reply to the Committee's question on the employees' right to take at least two weeks of uninterrupted annual holidays during each year and on annual holidays, which may be postponed in particular circumstances defined by domestic law, when exceeding two weeks, the report states that, according to Annual Leave with Pay Law of 1967 to 2011, the uninterrupted period of annual leave that employees are entitled to is nine working days. Employees are paid for annual leave by the annual leave fund, which operates under the authority of the Social Insurance Department. The Committee concludes that the situation is not in conformity with Article 2§3 of the Charter on the ground that not all employees have the right to take at least two weeks of uninterrupted holiday during the year.

In its previous conclusion (Conclusions 2014) the Committee asked whether workers who suffer from illness or injury during their annual leave are entitled to take the days lost at another time. In reply, the report refers to Article 6 of the Annual Leave with Pay Laws of 1967 to 2011 and confirms that employees who suffer from illness or injury during their annual leave are entitled to take the days lost at another time.

Conclusion

The Committee concludes that the situation in Cyprus is not in conformity with Article 2§3 of the Charter on the ground that not all employees have the right to take at least two weeks of uninterrupted holiday during the year.

Article 2 - Right to just conditions of work

Paragraph 5 - Weekly rest period

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

It examined the situation with regard to weekly rest period in its previous conclusions.

In its previous conclusions (Conclusions 2014), the Committee asked the next report to clarify whether any collective agreements or agreements between the employee and the employer that allowed derogations from the Organization of Working Time Act No. 63(I)/2002 have been reported and what measures are considered to constitute an "appropriate protection" for workers whose weekly rest has been suspended.

In reply to the Committee's question, the report states that agreements as such have not been reported. The Committee reiterates its previous question. It also asks the next report to provide information on how "appropriate protection" is provided to workers whose weekly rest has been suspended.

In reply to the Committee's request to confirm that the case is still that an employer may decide that a continuous rest period of 48 hours be given within a 14-days and to provide any relevant information in this respect, the report confirms that there have been no changes on this point.

The Committee asks the next report to provide information concerning the weekly rest periods applicable to employees whose working hours cannot be calculated or predetermined or are determined by employees themselves, to executives or persons authorized to make decisions, to employees who are family members and to persons working in the ritual sector of churches and religious communities.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Cyprus is in conformity with Article 2§5 of the Charter.

Article 2 - Right to just conditions of work

Paragraph 6 - Information on the employment contract

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

In its previous conclusion (Conclusions 2014) , the Committee held that the situation in Cyprus as regards the employees' right to information on the employment contract was in conformity with Article 2§6 of the Charter.

The Committee notes that there have been no changes to the legal framework regulating the employer's obligation to inform the employee on the employment contract, therefore it reiterates its previous finding of conformity.

Conclusion

The Committee concludes that the situation in Cyprus is in conformity with Article 2§6 of the Charter.

Article 2 - Right to just conditions of work

Paragraph 7 - Night work

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

In its previous conclusion (Conclusions 2014), the Committee held that the situation in Cyprus was in conformity with Article 2§7 of the Charter, pending receipt of the information requested and asked the next report to indicate whether there is continuous consultation with workers' representatives on the introduction of night work, its conditions and on measures taken to reconcile the needs of workers with the special nature of night work.

In reply, the report indicates that, according to Safety and Health at Work Laws of 1996 to 2015 and relevant regulations, employers should conduct a risk assessment suitable to night workers and to consult the employees' Safety Representatives on issues concerning safety and health at work. Employers also consult employees or their representatives in the context of the assessment of the risks of night work and regarding measures to reconcile the needs of employees who work during night time.

The Committee asks the next report to provide information on rules applicable, as regards night work, to employees whose working hours cannot be calculated or predetermined or are determined by employees themselves, to executives or persons authorized to make decisions, to employees who are family members and to persons working in the ritual sector of churches and religious communities.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Cyprus is in conformity with Article 2§7 of the Charter.

Article 4 - Right to a fair remuneration

Paragraph 5 - Limits to deduction from wages

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

In its previous conclusion (Conclusions 2014), the Committee held that the situation was not in conformity with Article 4§5 of the Charter on the ground that the guarantees in place to prevent workers from waiving their right to limitation of deduction from wages were insufficient. The Committee requested the next report to provide information on a number of issues.

The Committee asked to explain how the compatibility of deductions from wages with the subsistence needs of workers and their dependants was determined and whether limits were applied. It also asked about wage assignments permitted by law. In reply, the report states that deductions from wages are permitted only if they are provided by law or regulations of pension funds, provident funds and health care schemes, if they are ordered by a judicial decision, if they constitute compensation for loss or damage sustained by the enterprise, which was caused due to the employee's intentional or gross negligence, and if the employee gave his/her consent. The subsistence needs are determined on the basis of the Guaranteed Minimum Income Laws, in that the total of the calculated subsistence needs is compared to the total of the household's income. As regards deductions from wages, pursuant to the Protection of Wages Act, the Ministry of Labour, Welfare and Social Insurance "*exercises its discretion*" taking into account workers' personal circumstances. The report provides no information on wage assignments permitted by law. The Committee, therefore, reiterates its question in this respect.

The Committee also requested information on any limits applied in practice to the payment of wages through benefits in kind, the process of obtaining workers' consent and/or the consequences of prohibiting inducements to make use of shops or services operated by the employer in practice. The report states that part of the wage may be paid in kind, if this is the practice in a specific sector or economic activity but in any case this kind cannot constitute alcoholic beverages or harmful substances. There are certain limits to the payment of the wage in kind as regards the suitability of the products, which should be beneficial for the employee or his/her family, the value of these products and the employee's consent. The report provides no information as to the other points, the Committee, therefore, reiterates it.

Further, the Committee asked to explain in more detail the statutory grounds for deductions referred to in Article 10 §1(a) of the Protection of Wages Act and/or other permitted grounds for deductions, such as attachment for reduced output, reimbursement of advances on pay and trade union dues. The report indicates the employer should retain from the employee's wage contributions to the social insurance scheme, which account for 7.8% and the income tax. Other deductions to the employee's wage are permitted, as long as the employee has given his/her consent and his/her subsistence needs are being met. The Committee considers that this situation is not in conformity with Article 4§5 of the Charter on the ground that there are no guarantees in place to prevent workers from waiving their right to limitation of deduction from wages.

Finally, the Committee asked about the limits to deductions from wages applicable to the pay of workers governed by the Civil Servants Laws and of seafarers governed by the Merchant Shipping (Masters and Seamen) Act. The report states that the Civil Servants Laws and the Merchant Shipping Act, while they regulate deductions from wages, they do not provide for limits to such deductions. More specifically, deductions from seamen's wages may occur from fines, reduced commissions or other legal sanctions for misconduct and from illnesses or injuries caused deliberately by seamen themselves for the period that they are unable to perform their duties. Legal costs borne by the master concerning offences that led to a conviction of the seafarer may be deducted from one month's wage. The Committee considers that the situation is not in conformity with Article 4§5 of the Charter on the ground

that deductions from civil servants' and seafarers' wages may deprive these categories of workers and their dependents of their means of subsistence.

The Committee notes from the Governmental Committee's Report Concerning Conclusions of 2014 of the European Social Charter (revised), that there are no limits established to deductions from wages as regards state employees and blue collar workers, who are hourly –paid. The Committee considers that this situation is not in conformity with Article 4§5 of the Charter on the ground that deductions from wages may deprive these categories of workers and their dependents of their means of subsistence.

Conclusion

The Committee concludes that the situation in Cyprus is not in conformity with Article 4§5 of the Charter on the ground that:

- there are no guarantees in place to prevent workers from waiving their right to limitation of deduction from wages;
- deductions from wages may deprive civil servants, state employees, blue collar workers, seafarers and their dependents of their means of subsistence.

Article 5 - Right to organise

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

It already examined the situation with regard to the right to organise (forming trade unions and employer associations, freedom to join or not to join a trade union, trade union activities, representativeness, and personal scope) in its previous conclusions. It will therefore only consider recent developments and additional information

The Committee recalls that it has previously found the situation to be in conformity with the Charter. The report indicates there has been no change to the situation as described in previous reports.

Personal Scope

The Committee refers to its general question on the right of members of the armed forces to organise.

Conclusion

The Committee concludes that the situation in Cyprus 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 Cyprus.

The Committee notes from the report submitted by Cyprus that there have been no changes to the situation, which it has previously considered to be in conformity with Article 6§1 of the Charter.

Conclusion

The Committee concludes that the situation in Cyprus 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 Cyprus.

The Committee recalls that it has previously found the situation to be in conformity with the Charter but requested further information on the provisions of Law 55(I)/2012. According to the report Law 55(I)/2012 was introduced to deal with possible cases in which free collective bargaining was hindered by employers who refuse to recognise trade unions for collective bargaining purposes. The law provides that trade unions seeking recognition for collective bargaining purposes can submit an application for recognition to the Trade Union Registrar. The new law gives the right to be recognized to a trade union if it represents at least 50% of employees in a firm employing more than 30 persons. If a trade union represents at least 25% of the workforce, compulsory recognition takes place after a secret ballot (organised by the Trade Union Registrar with at least a 40% participation rate) where 50% of those voting support recognition.

The Committee asks the next report to provide updated information on how many employees are covered by a collective agreement.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Article 6 - Right to bargain collectively

Paragraph 3 - Conciliation and arbitration

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

The Committee notes from the report submitted by Cyprus that there have been no changes to the situation, which it has previously considered to be in conformity with Article 6§1 of the Charter.

Conclusion

The Committee concludes that the situation in Cyprus is in conformity with Article 6§3 of the Charter.

Article 6 - Right to bargain collectively

Paragraph 4 - Collective action

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

The report indicates that there have been no changes to the situation described in previous reports.

Entitlement to call a collective action

The Committee recalls that it previously found the situation not to be in conformity with Article 6§4 of the Charter on the ground that the legislation in force requires that a decision to call a strike must be endorsed by the executive committee of a trade union. According to the report draft legislation is underway which will remedy the problem. As the situation remained unchanged during the reference period the Committee concludes that the situation is still not in conformity with the Charter.

Specific restrictions on the right to strike and procedural requirements

The Committee refers to its general question on the right of members of the police force to strike.

Conclusion

The Committee concludes that the situation in Cyprus is not in conformity with Article 6§4 of the Charter on the ground that the legislation in force requires that a decision to call a strike must be endorsed by the executive committee of a trade union.

Article 22 - Right of workers to take part in the determination and improvement of working conditions and working environment

The Committee takes note of the information contained in the report concerning Article 22b only submitted by Cyprus.

Protection of health and safety

The Committee previously requested more detailed and precise information on the appointment, duties and functioning of all the above mentioned safety representatives, safety committees and safety officers (Conclusions 2014).

The report states that the appointment, duties and functioning of safety representatives, safety committees and safety officers is prescribed in the Safety Committees at Work Regulations (P.I. 134/1997). Furthermore, in accordance with the provisions of the Management of Safety and Health at Work Regulations (P.I. 173/2002), employers with more than five employees must assign one or more workers to engage in activities for the prevention and protection against risks to the safety and health of employed persons. These workers must be sufficiently trained, knowledgeable and experienced in safety and health at work issues. In cases where there is no adequate/suitable candidate within a workplace then the employer may assign the carrying out of protective and preventive work to external services / external consultants.

In order to ensure the compliance of employers with the above legal provisions, during regular and targeted inspection campaigns regarding Occupational Safety and Health (OSH), the Inspectors of the Department of Labour Inspection (DLI), check whether safety representatives have been appointed in each workplace where more than 5 persons are employed and whether safety committees, in which a defined number of safety representatives participate, are established (where 10 or more persons are employed). In cases of larger workplaces, where 200 or more persons are employed, a safety officer must be employed full time.

Remedies and sanctions

The Committee recalls that workers must have legal remedies when this right is not respected (Conclusions 2003, Bulgaria). There must also be sanctions for employers who fail to fulfil their obligations under Article 22 (Conclusions 2003, Slovenia). The Committee asked for further information on the situation. Regarding sanctions on employers who have contravened the above mentioned legislation, the report states that during the period 2012-2016, the DLI issued criminal proceedings against a number of employers for a total of 75 contraventions of the requirements of the Safety Committees at Work Regulations and of the Management of Safety and Health at Work Regulations. In each of the cases, the court imposed a fine and or imprisoned or suspended the imprisonment of the employer involved. The Committee seeks confirmation that the principle remedy for employees is to complain to the DLI, it asks if employees or their representatives have any other remedies.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Cyprus is in conformity with Article 22 b) of the Charter.

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

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

In its previous conclusions (Conclusions 2014) the Committee held that the situation in Cyprus was in conformity with Article 28 of the Charter and requested more precise information on the protection of ex-workers' representatives in case of termination of employment and unfair treatment. It also requested the next report to indicate what other situations are covered under the protection granted to workers' representatives.

In reply, the report states that protection of workers' representatives against termination of employment is established by the Termination of Employment Law of 1967 to 2016, which provides protection to workers' representatives from dismissals and by Workers' Representatives Convention (Ratification) Law of 2005 and 2012, which provides protection to workers' representatives from discrimination. The report does not provide information on other situations covered under the protection granted to workers' representatives. The Committee, therefore, reiterates its question.

Conclusion

The Committee concludes that the situation in Cyprus is in conformity with Article 28 of the Charter.

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

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

The Committee previously deferred its conclusion (Conclusions 2014), pending receipt of the information requested.

Definition and scope

In its previous conclusion (Conclusions 2014), the Committee asked what was the average number of employees not covered by the Collective Redundancies Law.

In reply, the report states that approximately 146 730 employees, who are employed in undertakings with 20 or less employees, are covered by the Collective Redundancies Law. The Committee asks on what ground these employees are covered by the Collective Redundancies Law, since it does not apply to undertakings that employ 20 or fewer employees. The report contains no information on the average number of employees not covered by the Collective Redundancies law during the reference period. The Committee, therefore, reiterates its question.

Preventive measures and sanctions

In its previous conclusion (Conclusions 2014) the Committee asked what preventive measures exist to ensure that redundancies do not take effect before the obligation of the employer to inform and consult the workers' representatives has been fulfilled.

In reply, the report indicates that, pursuant to Article 6§1 of the Collective Redundancies Law of 2001, the employer is obliged to notify in writing the Ministry of Labour, Welfare and Social Insurance about the intended collective redundancies, which investigates whether the employer informed and consulted workers' representatives. The report provides no information on the right of employees' representatives to recourse to administrative or judicial proceedings before the redundancies are made to ensure that they are not put into effect before the consultation requirement is met. The Committee, therefore, asks the next report to provide information on this matter.

The Committee notes from the Collective Redundancies Law of 2001 that in case intended collective redundancies are caused by a judicial decision that results to the interruption of the operation of the undertaking, the employer is obliged to notify the competent authority only upon its request (Article 6§1) and that in this case the period of 30 days from the date of notification to the Ministry of Labour, Welfare and Social Insurance, during which collective redundancies cannot take effect, does not apply (Article 10). The Committee asks what preventive measures exist in this case to ensure that redundancies do not take effect before the obligation of the employer to inform and consult the workers' representatives has been fulfilled.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.