March 2018

European Social Charter

European Committee of Social Rights

Conclusions 2018

SLOVENIA

This text may be subject to editorial revision.

The following chapter concerns Slovenia which ratified the Charter on 7 May 1999. The deadline for submitting the 17th report was 31 October 2017 and Slovenia submitted it on 12 March 2018.

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).

Slovenia has accepted all provisions from the above-mentioned group.

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

The conclusions relating to Slovenia concern 23 situations and are as follows:

– 13 conclusions of conformity: Articles 2§3, 2§4, 2§6, 2§7, 4§2, 5, 6§1, 6§2, 6§3, 6§4, 21, 22 and 28;

– 2 conclusions of non-conformity : Articles 2§1 and 4§4.

In respect of the 8 other situations related to Articles 2§2, 2§5, 4§1, 4§3, 4§5, 26§1, 26§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 Slovenia under the Charter. The Committee requests the authorities to remedy this situation by providing the information in the next report.

During the current examination, the Committee noted the following positive developments:

Article 2§6

Following the adoption of the new Labour Relations Law which came into force in 2014, the obligatory elements of an employment contract have been expanded to include, in addition to all the elements listed in the previous law (see Conclusions 2014) the reason for temporary employment in a fixed-term contract.

Article 22

The Employment Relationship Law (No. 21/2013) entered in to force in 2013. Under the new law, the employer is obliged to submit organisational general acts to the trade unions to obtain their opinion. If there is no trade union present, the workers may take part through their directly elected worker's representatives in the adoption of general acts governing workers' rights. Prior to the adoption of such a general act, an employer must submit the proposition to the works council and/or the worker's representative to obtain their opinion. The respective body then must submit its opinion within eight days and the employer must examine and take a relevant position on the submitted opinion prior to adopting the act in question. If no works council or worker's representative is organized, the employer must inform the workers directly about its content prior to adopting the act.

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The next report to be submitted by Slovenia 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 Slovenia.

In its previous conclusion (Conclusions 2014), the Committee found that the situation was not in conformity with the Charter on the ground that in some collective agreements on-call time spent at home in readiness for work during which no effective work was undertaken was assimilated to rest periods.

In its previous conclusions (Conclusions 2014 and 2010), the Committee asked what guarantees exist that ensure that home workers do not work more than 16 hours a day or 60 hours per week. The Committee takes note of the adoption of the new Labour Relations Law which came into force during the reference period. The report explains that the law applies to all employment relationships concluded on the territory of the country, regardless of the place of work. In accordance with Article 155, in 24 hours, a worker whose working hours are irregularly distributed or temporarily redistributed is entitled to daily rest for a minimum of 11 hours. The report states that a violation of the labour law by an employer, in particular as regards daily rest, is punishable by a fine of €1500 to €4000.

In its previous conclusion (Conclusions 2010), however, the Committee noted that pursuant to Article 157 (which corresponds to Article 157 of the repealed law), an employer is not obliged to take into account the statutory working time limits in respect of, among others, home workers. Regarding this exception, while recognising that it is difficult to monitor the working hours in private homes, the Committee notes that also home workers have to be adequately protected against unreasonable and excessive daily and weekly working hours. The Committee asks how these categories of workers are protected against unreasonable working hours.

Regarding the ground for non-conformity, the report states that the regulation of reasonable working time is in conformity with the relevant international treaties and the case-law of the Court of Justice of the European Union. It notes that the conformity of collective agreements with the law is verified in collective labour disputes before the competent labour courts and social courts.

The Committee also notes from the information supplied to the Governmental Committee (Governmental Committee report on Conclusions 2014) that three collective agreements which govern the on-call periods were amended during the reference period. The amendments made to the collective agreements concerned consist in assimilating on-call periods to working time. However, the collective agreement in the rail transport sector, to which there has been no change, restricts on-call periods to 150 hours per month; on-call periods at home are not included in ordinary full-time hours. The Committee notes that the report does not contain any information on these amendments and requests that the next report provide updated detailed information on this matter.

The Committee recalls that in its decision on the merits of 23 June 2010 *Confédération générale du travail (CGT) v. France* (§§ 64-65), Complaint No 55/2009, it held that when an on-call period during which no effective work is undertaken is regarded a period of rest, this violated Article 2§1 of the Charter. The Committee found that the absence of effective work, determined *a posteriori* for a period of time that the employee *a priori* did not have at his or her disposal, cannot constitute an adequate criterion for regarding such a period a rest period. It also points out that the fact that national provisions are inspired by or based on a European Union directive or an international treaty does not remove them from the ambit of the Charter. In the light of the above, the Committee reiterates its finding of non-conformity.

Moreover, the Committee notes that according to the European Commission's working document entitled "Detailed report on the implementation by Member States of Directive 2003/88/EC concerning certain aspects of the organisation of working time Accompanying the document COM(2017)254 final" of 26 April 2017 (SWD(2017)204 final), in Slovenia,

certain legal acts "still expressly provide that inactive periods during on-call time at the workplace are not to be treated as working time". These are legal acts governing the police, judges, the armed forces and civil servants, in particular Article 71 of the Police Organisation and Work Act; the Judicial Service Act; Article 97e of the Defence Act; Article 46 of the Collective Agreement for Public Sector. The Committee asks for information on this subject in the next report, particularly the reasons for excluding these categories from the scope of the normal rules applicable.

The Committee notes from EUROSTAT data that the number of hours worked per week by full-time employees fell slightly from 41.9 in 2013 to 41.4 in 2016. According to the statistical data gathered by the OECD, the average annual hours worked per worker were 1 662 in 2013 and 1 667 in 2016.

The Committee notes from the report that the number of breaches of the rules on weekly working time reported by the Labour Inspectorate increased from 132 in 2013 to 167 in 2016.

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 2§1 of the Charter on the ground that in some collective agreements on-call time spent at home in readiness for work during which no effective work is undertaken is assimilated to rest periods.

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 Slovenia.

The Committee deferred its previous conclusion (Conclusions 2014) and asked to clarify whether employees working on public holidays have the right, in all cases, in addition to their salary or their basic remuneration, either to compensatory time off or to a supplement equal to 100% or to 150% of the salary or the basic remuneration.

The Committee notes the adoption of the new Labour Relations Law which came into force during the reference period. The report states that work is only authorised on holidays if the work and/or production process cannot be interrupted or when the nature of the tasks so requires.

The Committee notes from the report that workers have the right to a basic salary and to an allowance for working on a holiday (Article 137§2 of the Labour Relations Law). The report points out that if a worker is obliged to work on a holiday, they are not eligible for wage compensation, but they are eligible for remuneration for work in line with their employment contract and for an allowance paid for working on a holiday, the amount of which is stipulated in the collective agreement at branch level. The Committee asks the next report to provide specific information on the level of this amount. The Committee considers that work performed on a public holiday requires a constraint on the part of the worker, who should be compensated with a higher remuneration than that usually paid. Accordingly, in addition to the paid public holiday, work carried out on that holiday must be paid at least double the usual wage. The remuneration may also be provided as compensatory time-off, in which case it should be at least double the days worked. The report also stresses that the Constitutional Court has held that the principle of equality should be complied with: if a person must work normal hours on a holiday, they should be eligible for one of the bonuses – either the right to rest or the right to a higher wage.

It also asked whether the compensatory time off granted is equivalent to or longer than the hours worked. As the report fails to answer this question, the Committee reiterates its request. In the meantime, it reserves its position on this matter.

Conclusion

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

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 Slovenia.

In its previous conclusion (Conclusions 2014), the Committee found that the situation in Slovenia was in conformity with the Charter. It notes the adoption of the new Labour Relations Law which came into force in 2014, and replaced the previous law of 2003. The report stresses that regarding the length of paid leave, there have been no legislative changes. Employees have a right to an annual holiday by concluding an employment relationship (full or a proportionate part, depending on the period of employment in the calendar year).

The report points out that employers can request that workers plan at least two weeks of annual leave during the current calendar year. Regarding the rules on postponing annual leave, the report indicates that employees may use the entire annual leave not used by 31 December of the following calendar year, in case of illness, injury, maternity leave or parental leave.

The Committee concludes that the situation is in conformity with the Charter

Conclusion

The Committee concludes that the situation in Slovenia is in conformity with Article 2§3 of the Charter.

Article 2 - Right to just conditions of work

Paragraph 4 - Elimination of risks in dangerous or unhealthy occupations

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

It notes that the situation which it previously considered to be compatible with the Charter (Conclusions 2014) has not changed during the reference period and therefore reiterates its conclusion of conformity. It asks that the next report provide updated information on any changes to the legal framework concerning the elimination and reduction of risks in dangerous or unhealthy occupations.

Conclusion

The Committee concludes that the situation in Slovenia is in conformity with Article 2§4 of the Charter.

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 Slovenia.

In its previous conclusion (Conclusions 2014), the Committee found that the situation was in conformity with the Charter and asked for comprehensive and updated information on the situation. It also asked whether there are circumstances under which a worker may be allowed to work more than 12 days consecutively before being granted a two-day rest period and what guarantees apply in such cases.

The Committee notes the adoption of the new Labour Relations Law which came into force during the reference period. The report points out that Article 156 which governs the weekly rest period has not been amended.

The Committee notes from the report that, in accordance with Article 156§3, every worker must be ensured two rest periods of uninterrupted 36 or 35 hours in a period of 14 successive days. Moreover, derogations are possible in the cases provided for by Article 157 and, based on a collective agreement, in the cases mentioned in Article 158§§ 2, 3 and 4.

The Committee understands that, based on a collective agreement, Article 158§2 permits the accumulation of entitlement to weekly rest over a period of up to six months in the case of shift work.

The Committee also understands that if, based on a collective agreement, Article 158§4 of the Labour Relations Law permits the accumulation of entitlement to weekly rest over a period up to six months, in particular where the nature of the work requires a permanent presence, where the nature of the activity requires continuous work or provision of services or where an irregular or increased workload is foreseen.

The Committee points out that, in order to comply with Article 2§5 of the Charter, the relevant legislation must guarantee that workers cannot waive their right to a weekly rest period or accept that it be replaced by compensation. Moreover, the Committee considers that the weekly rest period may be deferred until the following week provided that employees are not required to work more than 12 days in a row before being granted two days of rest.

So that it may assess the situation, the Committee requests that the next report provide information on any provisions, other than those in the Labour Relations Law, which deal specifically with the weekly rest period in the case of the types of work mentioned above. In the meantime, the Committee defers its conclusion.

Conclusion

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

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 Slovenia.

In its previous conclusion (Conclusions 2014), the Committee found that the situation was in conformity with the Charter and asked for comprehensive and updated information on the situation.

The report states that following the adoption of the new Labour Relations Law which came into force in 2014, the obligatory elements of an employment contract have been expanded to include, in addition to all the elements listed in the previous law (Conclusions 2014) the reason for temporary employment in a fixed-term contract.

Conclusion

The Committee concludes that the situation in Slovenia 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 Slovenia.

In its previous conclusion (Conclusions 2014), the Committee found that the situation was in conformity with the Charter and requested comprehensive and updated information on the situation and, in particular, as regards the obligation to provide for medical examinations prior to employment on night work and regularly thereafter.

The Committee notes the adoption of the new Labour Relations Law which came into force during the reference period. The report points out that the provisions on night work have not been amended. However, the report notes that women's consent to night work is no longer necessary because ILO Convention No. 89 concerning Night Work of Women Employed in Industry (revised in 1948) has been repealed.

Moreover, the report adds that employers must ensure medical check-ups for workers, which comply with the risks for the health and safety of workers under Article 36 of the Occupational Health and Safety Act. In addition, medical check-ups are laid down in the Rules concerning the preventive medical examinations of workers which establish the basic volume, content and deadlines for preventive medical examinations. The Rules apply to night work and provide in those cases for certain specific additional examinations at intervals of between 12 and 36 months.

Conclusion

The Committee concludes that the situation in Slovenia is in conformity with Article 2§7 of the Charter.

Article 4 - Right to a fair remuneration

Paragraph 1 - Decent remuneration

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

Previously the Committee deferred its conclusion (Conclusions 2014), pending receipt of the information requested and asked the next report to state whether the minimum wage in force is gross or net of social contributions and tax deductions.

In reply, the report indicates that, according to the Minimum Wage Act, the minimum monthly wage is established as a gross amount which, pursuant to Article 5 of the Minimum Wage Act, is adjusted at least to the increase in consumer prices. As of 1 January 2016 certain allowances are not included in the amount of the statutory minimum wage. According to the data provided in the report, in 2013 the gross average wage amounted to € 1523, while the gross minimum wage amounted to € 784 (51.4% of the gross average wage). In 2014 the gross average wage amounted € 1540, while the gross minimum wage to € 789 (51.2% of the gross average wage). In 2015 the gross average wage amounted to € 1556, while the gross minimum wage amounted to € 791 (50.8% of the gross average) and in 2016 the gross average wage amounted to € 1585, while the gross minimum wage amounted to € 791 (49.9% of the gross average). The Committee asks the next report to provide information and data on the net minimum and average wage and defers its conclusion.

According to EUROSTAT data, the annual net earnings increased from € 11 824.18 in 2013 to € 12 175,93 in 2015. In addition, according to the Statistical Office of the Republic of Slovenia data, the average net monthly earnings amounted to € 997.01 in 2013, to € 1 005.41 in 2014, to € 1 013.23 in 2015 and to € 1 030.16 in 2016.

The Committee notes from the report that the Labour Inspectorate found 25 violations of the Minimum Wage Act in 2013, 16 violations in 2014, 21 violations in 2015 and 27 violations in 2016.

In its previous conclusion (Conclusions 2014), the Committee asked the next report to provide explanations on the variations of pay levels from sector to sector and on the fact that they are very low or even lower than the minimum wage in some sectors as well as on the alleged existence of a lower minimum wage in the textile and leather sectors. It also asked for information on measures designed to ensure that minimum wages are applied in low pay sectors and regions.

The report does not provide information on this issue. The Committee, therefore, reiterates its question.

In its previous conclusion (Conclusions 2014), the Committee noted that austerity measures had been stepped up through an agreement on measures relating to salaries and other labour costs in the public sector and asked information on wages in the public sector governed by the Public Sector Pay System Act of 27 September 2007 (No. 95/07), as amended.

In reply, the report refers to several collective agreements and regulations that came into force during the reference period and had an impact on payments in the public sector, including the non- adjustment of wages in the public sector to the increase in consumer prices and the decrease from 0.5% to 5% of the basic wage for public employees and high officials through the introduction of a new wage scale. In addition, decrease in pay for job performance regarding excessive workload was introduced, while extra payments due to specialization, masters and doctorate degrees were decreased by 50%. In addition, in 2013 and 2014 public employees and high officials that met the requirements for promotion, were not promoted to a higher level or grade and in 2015 and 2016 they had the right to the respective wages with delay. The report indicates that the adopted measures aimed to achieve fiscal balance and prevent public expenditure. The Committee asks the next report to confirm that the Minimum Wage Act applies to employees in the public sector.

Conclusion

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

Article 4 - Right to a fair remuneration

Paragraph 2 - Increased remuneration for overtime work

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

In its previous conclusion (Conclusions 2014), the Committee considered that the combination of equivalent time off and an allowance for overtime corresponds to increased remuneration for overtime work and concluded that the situation was in conformity with the Charter.

The Committee notes the adoption of the new Labour Relations Law which came into force in 2014, and replaced the previous law of 2003. It notes that the situation which it previously found to be in conformity with the Charter remained the same during the reference period, and therefore reiterates its finding of conformity.

Conclusion

The Committee concludes that the situation in Slovenia is in conformity with Article 4§2 of the Charter.

Article 4 - Right to a fair remuneration

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

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

Conclusion

Pending its decision concerning UWE c. Slovenia, complaint No. 137/2016, the Committee defers its conclusion.

Article 4 - Right to a fair remuneration

Paragraph 4 - Reasonable notice of termination of employment

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

In its previous conclusion (Conclusions 2014), the Committee held that the situation was not in conformity with Article 4§5 on the grounds that notice periods were not reasonable for employees with more than three years of service in companies with ten employees or fewer in accordance with some collective agreements; in cases of receivership or liquidation and for ordinary dismissal for economic reasons and that no notice period was provided for in circumstances of dismissal for refusal to transfer a contract to a successor employer; dismissal during probationary periods and liquidation where no administrator has been appointed.

In its previous conclusion (Conclusions 2014), the Committee noted that the situation in Slovenia has changed since the adoption of the Employment Relations Act of 5 March 2013 (No. 21/2013), and requested up to date information in the next report in the light of this legislation.

In reply, the report states that the possibility of establishing by collective agreements shorter notice periods in undertakings with 10 or less employees was abolished with the new Employment Relations Act (ZDR-1) and as a result, notice periods provided for by Article 94 of the aforementioned Act apply to everyone. The liquidation when no administrator has been appointed has also been abolished .

As regards notice periods in cases of dismissal due to receiveship or liquidation, the report indicates that the notice period applicable is 15 days. In this case, the employee is entitled to severance pay, the amount of which depends on the duration of service (Articles 106 and 108 of ZDR-1). The Committee asks the next report to provide information on the amount of severance pay in these cases. Meanwhile, it reserves its position on this point.

The report indicates that in cases of dismissals for economic reasons or incompetence, the notice periods applicable are that of 15 days for employees with up to one year of service and 30 days for employees with more than one year of service (Article 94 of ZDR-1). After a period of two years of service, the notice period is increased by 2 days for every year of service, but it may not exceed the period of 60 days. For employees with more than 25 years of service, the notice period applicable is that of 80 days. The branch collective agreement may establish a different notice period in this case, but not less than 60 days. The Committee considers that the situation is not in conformity with Article 4§5 of the Charter on the ground that are not reasonable for workers with more than five years of service.

The report indicates that the notice period applicable to the termination of employment during the probationary period, due tounsatisfactory performance, is seven days. The Committee notes from Article 125 of the ZDR-1 that the probationary period may last up to 6 months**.**

In its previous conclusion (Conclusions 2014), the Committee asked for information on the notice periods and/or compensation applicable in the event of termination of employment upon death of an employer who is a natural person and upon early termination of fixed-term contracts.

The report does not provide the requested information. The Committee, therefore, reiterates its previous questions.

Conclusion

The Committee concludes that the situation in Slovenia is not in conformity with Article 4§4 of the Charter on the ground that notice periods applicable in ordinary dismissals for economic reasons or incompetence are not reasonable for workers with more than five years of service.

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 Slovenia.

In its previous conclusion (Conclusions 2014), the Committee deferred its conclusion, pending receipt of some key information.

The Committee notes from the report that, pursuant to Article 136 of the Employment Relationships Act, which came into force in 2013, deductions from wages should be established by an Act and any contrary provision in the employment contract shall be considered null and void. Furthermore, the employer may offset his/her obligation to wage payment with the employee's liabilities only upon written consent of the employee, which is given after the employer's claim occurs.

As regards the limitations applicable to claim enforcement, according to Article 102 of the Claim Enforcement and Security Act, as amended during the reference period, wages may be attached to two thirds and the debtor must not be left with less than 76% of the minimum wage or less than 50% of the minimum wage in case of compensation for lost maintenance because of the death of the provider. In case the debtor has a dependent family member or is responsible for another person, this amount is increased according to the act regulating social assistance payments. Under the enforcement procedure for tax and non-tax liabilities, such as fines and claims for administrative fees and minor offences, the limit is two thirds of the wage and the debtor must not be left with less that 76% of the minimum wage. The increase to the amount left if the debtor has a depending family member, applies as well.

In its previous conclusion, the Committee reiterated its previous question regarding the application in practice of the established limits, in particular as regards workers with the lowest pay who may benefit from the additional limit set by reference to the basic amount of the subsistence income. In this regard, the Committee takes note of the calculations provided by the report as regards the reasonableness of limits to wage deductions.

The Committee further asked whether workers may waive the limits to deductions from wages imposed by legislation. The report does not provide information in this respect. The Committee, therefore, reiterates its question. Should the next report not provide the requested information, there will be nothing to demonstrate that the situation is in conformity with Article 4§5 of the Charter.

Conclusion

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

Article 5 - Right to organise

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

The Committee examined the situation with regard to trade union law in its previous conclusion (forming trade unions and employers' organisations, freedom to join or not to join a trade union, trade union activities and representativeness, personal scope, Conclusions 2014). It will therefore only consider recent developments and additional information.

Trade union activities

The Committee previously requested further information on sanctions for employers in the case of interference in the activities of trade unions (Conclusions 2014). The report states that the Employment Relationship Act prohibits discrimination, inter alia, on the grounds of trade union membership and in the event of a violation of the above mentioned prohibition an employer may be subject to a fine. Further the report states that the criminal law prohibits employers from preventing employees from carrying out or hindering trade union activities, from obstructing a trade union or from taking over a trade union.

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 Slovenia 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 Slovenia.

The Committee previously found the situation to be in conformity with the Charter (Conclusions 2014). The report indicates that there has been no substantial change to situation, however employers are now obliged to also consult works councils and not only trade unions in certain circumstances. The Committee will examine this situation under Article 21 of the Charter. Meanwhile it reiterates its previous conclusion.

Conclusion

The Committee concludes that the situation in Slovenia 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 Slovenia.

The Committee previously found the situation to be in conformity with the Charter pending receipt of information on the representativeness.

The Committee recalls that it had previously noted that collective bargaining coverage was very high (approximately 96%). The report states that collective agreement coverage is declining in the private sector and has fallen from 92% in 2010 to 78% in 2013, however it remains 100% in the public sector.

According to the Representativeness of Trade Unions Act, to be representative at a national level, each trade union association or confederation must be:

- democratic and ensure membership voluntary
- have been operational for at least six months without interruption;
- independent from the state and employers;
- financed predominantly by membership fees and other own sources;
- have a defined share of members.

To be representative at a national level, an association or confederation of trade unions must have a membership of at least 10% of the employees in the particular industry, sector or occupation. For an individual trade union to be representative, it must represent at least 15% of employees of a particular industry, sector, occupation, municipality or broader local community.

The decision as to whether a union is representative is taken by the Minister for Labour on the basis of evidence provided by the union, although where a union is seeking to be representative at purely company (business) level, the decision is taken by the employer.

Legislation does not limit the right to conclude collective agreements to the representative trade unions. However only collective agreements signed by the most representative trade unions may be extended.

Conclusion

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

Article 6 - Right to bargain collectively

Paragraph 3 - Conciliation and arbitration

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

The Committee previously found the situation to be in conformity with the Charter, (Conclusions 2014). According to the report there have been no changes to the situation previously described. Therefore the Committee reiterates its previous conclusion.

Conclusion

The Committee concludes that the situation in Slovenia 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 Slovenia.

Collective action: definition and permitted objectives, Entitlement to call a collective action and Consequences of a strike

The Committee previously found the situation to be in conformity with the Charter (Conclusions 2014).

Specific restrictions to the right to strike and procedural requirements

The report provides updated information on the rules applicable to strike action in certain sectors such as the administration of justice, defence, police, health care, prison service, financial administration services, vetinary services and search and rescue services. The Committee notes that the sectors in which the right to strike may be restricted are fairly extensive and asks the next report to demonstrate that the restrictions satisfy the conditions laid down in Article G of the Charter.

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

The Committee recalls that a minimum service is imposed in the event of a strike in these sectors. Specific legislation for each sector lays down the general minimum requirements that must be observed during a strike. The Committee asks how in practice the minimum service requirements are agreed; whether when establishing a minimum service to be provided during a strike workers (and or their organisations) are involved on an equal footing with employers regarding the nature or degree of the minimum service to be provided. It notes that as regards the legislation on the minimum services to be provided in the financial administration services of the state seem to permit a senior official to make a final decision if no agreement can be made with the strike committee. The Committee seeks clarification of the situation.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Slovenia is in conformity with Article 6§4 of the Charter.

Article 21 - Right of workers to be informed and consulted

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

The Committee notes that there have been no changes in the situation which it previously concluded to be in conformity with Article 21 of the Charter. Therefore, it reiterates its previous finding of conformity.

It takes note of the number of breaches relating to violations of the right to information and consultation, as identified by the Labour Inspectorate during the reference period.

Conclusion

The Committee concludes that the situation in Slovenia is in conformity with Article 21 of the Charter.

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 submitted by Slovenia.

The Committee examined the situation as regards the right of workers to take part in the determination and improvement of working conditions and working environment in its previous conclusions (Conclusions 2003, 2007 and 2010) and concluded that the situation was in conformity with the Charter. It will therefore only consider new developments and additional information in this conclusion.

Working conditions, work organisation and working environment

In its previous conclusion (Conclusions 2014), the Committee asked for detailed information as regards the new Employment Relationship Law (No. 21/2013) and its implementation.

In reply, the report states that under the new law, the employer is obliged to submit organisational general acts to the trade unions to obtain their opinion. If there is no trade union present, the workers may take part through their directly elected worker's representatives in the adoption of general acts governing workers' rights. Prior to the adoption of such a general act, an employer must submit the proposition to the works council and/or the worker's representative to obtain their opinion. The respective body then must submit its opinion within eight days and the employer must examine and take a relevant position on the submitted opinion prior to adopting the act in question. If no works council or worker's representative is organized, the employer must inform the workers directly about its content prior to adopting the act.

The Committee notes that it is possible for the employer to modify the rights of workers that are usually regulated by means of collective agreement, if no trade union is organized within the undertaking. However, the modification must be in a way that the rights are regulated in a more favourable manner than in an act or in collective agreements binding on the employer.

Protection of health and safety

In its previous conclusion, the Committee asked for a detailed description of the rules laid down by the new Law on Health and Safety at Work and their implementation with regard to the right of workers or their representatives to participate in the decision-making process related to the protection of health and safety within the undertaking.

It notes from the report that the works council or health and safety representative has various powers to ensure that the right is enforced, among them the ability to request an inspection by the competent inspection service if they consider that the safety measures taken by the employer are inadequate. They also have the right to be present at any inspection of the protection of health and safety at work. Furthermore, all workers have the right to make proposals, comments and provide information concerning occupational health and safety.

Conclusion

The Committee concludes that the situation in Slovenia is in conformity with Article 22 of the Charter.

Article 26 - Right to dignity in the workplace

Paragraph 1 - Sexual harassment

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

Prevention

The Committee refers to its previous conclusion (Conclusions 2014) as regards the provisions establishing the employers' obligation to take prevention measures against harassment and notes from the report that a new similar provision has been introduced under Article 47 of the Employment Relationships Act (ZDR-1), which came into force in 2013.

In addition, the report states that, pursuant to Articles 23 and 24 of the Health and Safety at Work Act (ZVZD-1) the employer is obliged to adopt measures to prevent, eliminate and manage cases of violence, mobbing, harassment and other forms of psychosocial risks at the workplace which can pose a threat to workers' health. Under these provisions, the employer shall conduct a risk assessment with regard to harassment and adopt measures to reduce those risks. The employer is also obliged to provide assistance to employees under threat and information on measures adopted against harassment. Where an employer does not comply with these obligations, a fine may be imposed on them, ranging from €2 000 up to €40 000. Labour inspectors have the authority to conduct inspections and issue regulatory decisions in the context of an administrative procedure.

In response to the Committee's request to be systematically informed of the preventive measures effectively taken during the reference period to make the public more aware of the problem of sexual harassment, including efforts to consult social partners, the report states that conferences, seminars and workshops were held concerning harassment in the workplace, as preventive measures to decrease psychosocial risks. Awareness raising also took place in the context of European campaigns for Healthy Work Environment and national projects. The Committee asks to what extent social partners are consulted with regard to the promotion of awareness-raising and prevention of sexual harassment at work.

Liability of employers and remedies

The Committee refers to its previous conclusions (Conclusions 2007, 2010, 2014) as regards the definition and prohibition of sexual harassment under the relevant legal framework (notably, the Employment Relationship Act, the Act Implementing the Principle of Equal Treatment (AIPET) of 2002 and the Regulation on Measures to Protect the Dignity of Employees in Public Administration (RMPDEPA) of 2009). As a new Employment Relationships Act was adopted in 2013, the Committee requested updated information on the impact of the amendments as regards the scope of Article 26§1 of the Charter.

In response to this question, the report confirms that the new act maintains the prohibition of sexual harassment in the workplace (Article 7) and the employer's liability in case of violation of this prohibition (Article 8). The new Act introduces however a more explicit obligation to take prevention measures (Article 47, see above) and new rules on reinstatement (Article 118, see below). The Committee previously noted that victims of harassment are protected from retaliation (Conclusions 2014).

In its previous conclusions (Conclusions 2007, 2014), the Committee noted that victims of sexual harassment could file a judicial complaint for violation of the prohibition of discrimination pursuant to the Employment Relationship Act or the AIPET, if the employer did not take appropriate measures within 8 days after being seised of the situation in writing. The Committee also noted that they could address the Advocate of the Principle of Equality in view of finding a friendly settlement. It noted that if the perpetrator of the harassment refused to comply with the Advocate's recommendations, the Labour Inspectorate could start proceedings on the basis of the Advocate's report and take measures against the offender.

The Committee asked for information on these measures (Conclusions 2007, 2014). In this respect, the Committee takes note of the statistical data provided concerning the number of violations found by the Labour Inspectorate during the reference period in respect of sexual harassment and other forms of harassment and bullying in the workplace. However, the report does not provide any information on the follow-up given to these cases, accordingly the Committee reiterates its request.

As regards the employer's liability in case of sexual harassment at the workplace or in relation with work involving – as a victim or as a perpetrator – a third person (sub-contractors, self-employed persons, visitors, customers, etc.), the Committee previously (Conclusion 2010, 2014) found that a civil or criminal liability can apply under the legislation in force.

Burden of proof

The Committee refers to its previous conclusion (Conclusions 2014), where it found that a shift in the burden of proof applies in cases of harassment.

Damages

The Committee previously noted that, under the general rules of civil law, no flat rate compensations apply as regards the amount of damages awarded to the victim (Conclusions 2007) and requested (Conclusions 2014) examples of case-law, including examples of award of damages to the victim in cases of sexual harassment. As the report does not provide this information, the Committee reiterates its request.

Victims of unfair dismissal can request their reinstatement. However, when the continuation of the employment relationship is impossible, Article 118 of the Employment Relationship Act, as amended in 2013, provides for compensation, which may not exceed the amount of 18 monthly wages of the employee. The Committee asks whether, in these cases, damages for non-pecuniary loss, not subject to a ceiling, can be recovered through other legal avenues (see Conclusions 2012, Article 24). It furthermore reiterates its request for information as to the redress (compensation and reinstatement) available to victims of sexual harassment who have been pushed to resign.

Conclusion

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

Article 26 - Right to dignity in the workplace

Paragraph 2 - Moral harassment

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

Prevention

The Committee refers to its previous conclusion (Conclusions 2014) as regards the provisions establishing the employers' obligation to take prevention measures against harassment and notes from the report that a new similar provision has been introduced under Article 47 of the Employment Relationships Act (ZDR-1), which came into force in 2013.

In addition, the report states that, pursuant to Articles 23 and 24 of the Health and Safety at Work Act (ZVZD-1) the employer is obliged to adopt measures to prevent, eliminate and manage cases of violence, mobbing, harassment and other forms of psychosocial risks at the workplace which can pose a threat to workers' health. Under these provisions, the employer shall conduct a risk assessment with regard to harassment and adopt measures to reduce those risks. The employer is also obliged to provide assistance to employees under threat and information on measures adopted against harassment. Where an employer does not comply with these obligations, a fine may be imposed on them, ranging from €2 000 up to €40 000. Labour inspectors have the authority to conduct inspections and issue regulatory decisions in the context of an administrative procedure.

In response to the Committee's request to be systematically informed of the preventive measures effectively taken during the reference period to make the public more aware of the problem of moral (psychological) harassment, including efforts to consult social partners, the report states that conferences, seminars and workshops were held concerning harassment in the workplace, as preventive measures to decrease psychosocial risks. Awareness raising also took place in the context of European campaigns for Healthy Work Environment and national projects. The Committee asks to what extent social partners are consulted with regard to the promotion of awareness-raising and prevention of moral (psychological) harassment at work.

Liability of employers and remedies

The Committee refers to its previous conclusions (Conclusions 2007, 2010, 2014) as regards the definition and prohibition of moral (psychological) harassment under the relevant legal framework (notably, the Employment Relationship Act, the Act Implementing the Principle of Equal Treatment (AIPET) of 2002 and the Regulation on Measures to Protect the Dignity of Employees in Public Administration (RMPDEPA) of 2009). As a new Employment Relationships Act was adopted in 2013, the Committee requested updated information on the impact of the amendments as regards the scope of Article 26§2 of the Charter.

In response to this question, the report confirms that the new act maintains the prohibition of moral (psychological) harassment in the workplace (Article 7) and the employer's liability in case of violation of this prohibition (Article 8). The new Act introduces however a more explicit obligation to take prevention measures (Article 47, see above) and new rules on reinstatement (Article 118, see below). The Committee previously noted that victims of harassment are protected from retaliation (Conclusions 2014).

In its previous conclusions (Conclusions 2007, 2014), the Committee noted that victims of moral (psychological) harassment could file a judicial complaint for violation of the prohibition of discrimination pursuant to the Employment Relationship Act or the AIPET, if the employer did not take appropriate measures within 8 days after being seised in writing. The Committee also noted that they could address the Advocate of the Principle of Equality in view of finding a friendly settlement. It noted that if the perpetrator of the harassment refused to comply with the Advocate's recommendations, the Labour Inspectorate could start proceedings on the

basis of the Advocate's report and take measures against the offender. The Committee asked for information on these measures (Conclusions 2007, 2014). In this respect, the Committee takes note of the statistical data provided concerning the number of violations found by the Labour Inspectorate during the reference period in respect of sexual harassment and other forms of harassment and bullying in the workplace. However, the report does not provide any information on the follow-up given to these cases, accordingly the Committee reiterates its request.

As regards the employer's liability in case of moral (psychological) harassment at the workplace or in relation with work involving – as a victim or as a perpetrator – a third person (sub-contractors, self-employed persons, visitors, customers, etc.), the Committee previously (Conclusion 2010, 2014) found that a civil or criminal liability can apply under the legislation in force and asked for updated examples of relevant case law. As, the report does not provide information on this matter, the Committee reiterates its question.

Burden of proof

The Committee refers to its previous conclusion (Conclusions 2014), where it found that a shift in the burden of proof applies in cases of harassment.

Damages

The Committee previously noted that, under the general rules of civil law, no flat rate compensations apply as regards the amount of damages awarded to the victim (Conclusions 2010, 2014) and requested (Conclusions 2014) examples of case-law, including examples of award of damages to the victim in cases of moral (psychological) harassment. As the report does not provide this information, the Committee reiterates its request.

Victims of unfair dismissal can request their reinstatement. However, when the continuation of the employment relationship is impossible, Article 118 of the Employment Relationship Act, as amended in 2013, provides for compensation, which may not exceed the amount of 18 monthly wages of the employee. The Committee asks whether, in these cases, damages for non-pecuniary loss, not subject to a ceiling, can be recovered through other legal avenues (see Conclusions 2012, Article 24). It furthermore reiterates its request for information as to the redress (compensation and reinstatement) available to victims of moral (psychological) harassment who have been pushed to resign.

Conclusion

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

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 Slovenia.

Types of workers' representatives

The Committee has already observed (Conclusions 2003) that employess may be represented in Slovenia by trade union representation, workers' commissioner (in enterprises with less than 20 employees), workers' council or workers' representatives on the enterprise's supervisory board.

Protection and facilities granted to workers' representatives

The Committee notes from the report that there have been no changes to the situation, which it has previously considered to be in conformity with Article 28 of the Charter. It asks to be kept up to date in the next report as to any developments.

Conclusion

The Committee concludes that the situation in Slovenia 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 Slovenia.

In its previous conclusion (Conclusions 2014), the Committee examined the situation in relation to the right to information and consultation in collective redundancy procedures and concluded that the situation was in conformity with Article 29 of the Charter. It will therefore only consider recent developments and the additional information provided.

In its previous conclusion, the Committee asked what sanctions exist if the employer fails to notify the workers' representatives about planned redundancies and 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 if an employer initiates the procedure for terminating the employment contract of several employees for business reasons, contrary to Articles 99 and 100, the violation is punishable by a fine ranging from €3 000 to €20 000.

The Committee notes that the report only partly answers the questions raised; it therefore asks again 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.

Conclusion

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