March 2019

1961 European Social Charter

European Committee of Social Rights

Conclusions XXI-3 (2018)

GERMANY

This text may be subject to editorial revision.

The following chapter concerns Germany which ratified the 1961 Charter on 27 January 1965. The deadline for submitting the 35th report was 31 October 2017 and Germany submitted it on 28 December 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" :

- the right to just conditions of work (Article 2),
- the right to a fair remuneration (Article 4),
- the right to organise (Article 5),
- the right to bargain collectively (Article 6),
- the right to information and consultation (Article 2 of the Additional Protocol),
- the right to take part in the determination and improvement of the working conditions and working environment (Article 3 of the Additional Protocol).

Germany has accepted all provisions from the above-mentioned group except Article 4§4 and Articles 2 and 3 of the Additional Protocol.

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

The conclusions relating to Germany concern 14 situations and are as follows :

– 8 conclusions of conformity: Articles 2§1, 2§3, 2§4, 4§2, 5, 6§1, 6§2 and 6§3 ;

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

In respect of the other 2 situations related to Articles 2§5 and 4§5, 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 Germany 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§3

In the public service sector trainees are now entitled to leave with continued payment of their training allowance, with the provision that the entitlement to leave amounts to 29 days per calendar year if the weekly working time is spread over five days in the calendar week.

* * *

The next report will deal with the following provisions of the thematic group "Children, families and migrants":

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection of maternity (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19).

The deadline for submitting that report was 31 October 2018.

* * *

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 Germany.

In its previous conclusions (Conclusions XX-3 (2014)) the Committee deferred its conclusion pending information on how the average weekly working time of 48 hours is respected even if the reference period exceeds 12 months and on the guarantee that the maximum weekly working hours, including overtime, may never exceed 60 hours.

The report states that despite the possibility of a collectively agreed reference period of more than twelve months due to the provisions of Section 7§8 of the Working Hours Act (*Arbeitszeitgesetz ArbZG*), the average number of 48 working hours must be respected. Maximum weekly working hours, including overtime, will never exceed 60 hours (Sections 3 and 7§3 ArbZG). However this is only in exceptional circumstances.

The report provides statistical data according to which in collective agreements, the average weekly working hours for a full-time job in 2016 averaged 37.44 hours in the western part of Germany and 38.97 hours in the eastern part.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 2§1 of the 1961 Charter.

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 Germany.

In its previous conclusions (Conclusions XX-3 (2014)) the Committee deferred its conclusion and asked the next report to clarify whether a worker performing work on a public holiday is entitled to a compensatory day off or an equivalent salary amount (100%) and to an increased salary for the work performed that day.

The report states that there is no legal entitlement to a public holiday supplement but that it may result from collective agreements, company level agreements or individual contract agreements. At the end of 2016, supplements for work on Sundays and public holidays ranged from 65 to 151% of the collectively agreed pay.

The report states that employees who must work on Sundays or public holidays are entitled to a compensatory rest day according to Section 11§ 3 ArbZG.

However, the Committee considers that it has not been **established** that a worker's right to an adequate level of compensation for work performed on a public holiday is guaranteed.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 2§2 of the 1961 Charter on the ground that it has not been **established** that the worker's right to an adequate level of compensation for work performed on a public holiday is guaranteed.

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 Germany.

It notes from the report that the situation, which it has previously found to be in conformity with the Charter (Conclusions XX-3 (2014)), has not changed. In particular, the authorities recall that all collective agreements provide for longer periods of annual leave than the statutory minimum leave (in 2016, average leave amounted to approximately 30.6 to 30.7 working days, based on five working days per week).

The report further stipulates that in the public service sector the situation has improved further as trainees are now entitled to leave with continued payment of their training allowance, with the provision that the entitlement to leave amounts to 29 days per calendar year if the weekly working time is spread over five days in the calendar week.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 2§3 of the 1961 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 Germany.

In the previous conclusions (Conclusions XX-3 (2014)) the Committee deferred its conclusion and requested information of how it is ensured in practice through the organization of working time that employees are not unduly exposed to residual risks associated with inherently dangerous or unhealthy occupations.

The Committee notes that the report provides detailed information about the measures taken to protect workers including the use of findings in the field of labour studies, assessments on the basis of Section 5 of the Act dealing with Safety and Health at Work (*Arbeitsschutzgesetz ArbSchG*), comprehensive hygienic and technical protective measures and a suitable organization of the work ensuring a limitation of the duration and amount of exposure to hazardous substances as laid down in Section 8 Hazardous Substances Ordinance (*Gefahrstoffverordnung GeffStoffV*).

The report also stipulates that in accordance with Section 27 of the Federal Collective Agreement for the Public Service (*Tarifvertrag des öffentlichen Dienstes TVöD*) employees who regularly work shifts (Section 7§1 TVöD) or permanently do shift work (Section 7§2 TVöD) and who are entitled to receive supplements (Section 8§5 or 6 TVöD) and receive additional leave up to a total of six working days per calendar year.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 2§4 of the 1961 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 Germany.

In the previous conclusions (Conclusions XX-3 (2014)) the Committee deferred its conclusion and asked for clarification on how working time arrangements ensure the health and safety of workers if no rest day is granted for more than 12 consecutive days.

The report states that the legal requirements of Article 2§5 of the Charter are implemented by Section 9 *Arbeitszeitgesetz* (ArbZG) according to which employees are not allowed to work on Sundays or public holidays. However collective agreements may derogate from this rule. Statistical data on the percentage of workers affected by deviations from the principle of weekly rest cannot be provided according to the report.

The Committee asks the next report to provide information on the safeguards in place in case of postponement, for example whether authorisation of the labour inspectorate is required. Meanwhile it defers its conclusion.

Conclusion

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

Article 4 - Right to a fair remuneration

Paragraph 1 - Decent remuneration

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

The Committee previously concluded (Conclusions XX-3 (2014)) that the situation in Germany was not in conformity with Article 4§1 of the 1961 Charter on the ground that the lowest wage paid does not secure a decent standard of living.

The report states that Germany introduced a general statutory minimum wage of EUR 8.50 gross per hour on January 1st 2015, which was increased to EUR 8.84 on 1 January 2017 (outside the reference period). The general minimum wage is to be understood as the lowest possible amount payable.

The Committee recalls that to be considered fair within the meaning of Article 4§1, the minimum or lowest net remuneration or wage paid in the labour market must not fall below 60% of the net average wage. Where the net lowest wage paid is between 50% and 60% of the net average wage, it is for the State Party to show that this wage is sufficient to secure a decent standard of living.

According to EUROSTAT figures for 2016 the gross minimum monthly wage amounted for EUR 1440.00 in Germany, while according to *Statistisches Bundesamt (*DESTATIS) in 2016 the average gross monthly earnings in industry and service sector excluding bonuses amounted to EUR 3,703. That puts the gross monthly minimum wage at 38.9% of the gross average monthly wage in industry and service sector. Therefore, the Committee concludes that the situation is not in conformity **with Article 4§1** of the 1961 Charter.

Concerning the requested information on the remuneration of tenured civil servants and contractual staff in the civil service the report states that for contractual staff the lowest possible hourly wage for staff employed under the applicable collective agreement (TVöD) has been EUR 10.33 since February 1st 2017 (outside the refernce period).

The report further states that only young people without training and the previously long-term unemployed are excluded from minimum wage in the first six months of new jobs. It is not known how many people fall into that group. The exemption for the long-term unemployed was requested 3 335 times in total from August 2015 to February 2017. It is not known whether wages actually below the minimum wage were paid in these cases. Nor is it known to what extent persons excluded from the Minimum Wage Act are protected by collective agreements.

For a more accurate assessment of the situation, the Committee wishes to receive updated figures concerning net minimum and net median wages.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 4§1 of the 1961 Charter on the ground that the statutory minimum wage is not sufficient to ensure a decent standard of living to all workers.

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 Germany.

The Committee notes that there have been no changes to the situation which it has previously (Conclusions XX-3 (2014)) found to be in conformity with the Charter. The report indicates that as of end 2016, collectively agreed overtime supplements ranged from 24% to 43.5%.

With respect to the requested updated information regarding the rules that apply to flexible working time arrangements and to the question whether there are exceptions to the right of workers to an increased rate of remuneration for overtime the report states that the requirements of the Working Hours Act (Arbeitszeitgesetz, or ArbZG) apply to all employment relationships.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 4§2 of the 1961 Charter.

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 Germany.

Legal basis of equal pay

According to the report no new legal provisions have been introduced during the reference period.

Guarantees of enforcement and judicial safeguards

In its previous conclusion (Conclusions 2014) the Committee observed that while there was no ceiling on compensation in case of discrimination regarding pay, the legislation established, in cases involving reprisal dismissals regarding equal pay, a ceiling of a maximum of 12 months (or 18 months, in case of longer employment relationship) wages.

The Committee recalled that (Conclusions XVIII-2, (2006), Germany) in order to ensure the observance of labour law and the effective guarantee of the rights contained in the Charter, where the contract is terminated by the courts at the request of the employee, remedies for violations should not be limited to the payment of the amount of money which is owed. The Committee considered that no ceiling should be set to the remedies, such as the severance pay. To do so risks not being sufficiently deterrent for employers, nor adequately compensatory for the employee. The Committee considered that this principle applies both to litigations involving equal pay as well as reprisal dismissals. Therefore, the Committee found that the situation in Germany was not in conformity with the Charter due to the existence of a ceiling on compensation in litigations concerning reprisals.

The Committee notes from the report in this regard that the Federal Government takes the view that with the principle of safeguarding existing employment relationships (Bestandsschutzprinzip) German legislation fully complies with Article 4§3 of the Charter. If an employer terminates an employment relationship because an employee is lawfully exercising a legal right, including the right to non-discrimination with regard to pay, this amounts to retaliatory dismissal, which is prohibited and invalid pursuant to Civil Code (BGB) Section 612a in conjunction with Section 134. The employer's obligation to continue the employment relationship and to retroactively pay any unpaid salary or wages provides full compensation for the damage suffered by the employee as a result of an invalid dismissal. The possibility to file a request for termination of employment by way of court decision in return for severance pay (Section 9 of the Protection against dismissal Act (KSchG) despite the court's finding that the dismissal is invalid is an additional option granted to employees.

In these cases severance pay fixed by the court has the character of compensation and reparation for the socially unjustified loss of employment. The severance pay serves as an equivalent to replace the continuation of employment. The amount of severance pay is to be fixed by the court after due consideration of the circumstances of the individual case. A limit on the amount of severance pay is important for reasons of legal certainty and legal equality. Leaving the amount of severance pay entirely to the court's discretion would permit inequalities which would be difficult to justify. The courts already have a wide margin of discretion.

Moreover, the report states that Sections 9 and 10 KSchG only apply to severance pay fixed by court decision. The provisions do not apply to individual contractual agreements. The limits set out in Section 10 KSchG may be exceeded in judicial or extrajudicial settlements or in termination agreements. As it is up to the employee to file an application with the court for termination of employment, they can also decide whether in return for the termination of employment they receive severance pay negotiated individually or severance pay fixed by court decision.

The Committee recalls that anyone who suffers wage discrimination on grounds of gender must be entitled to adequate compensation. In this connection, the Committee makes a distinction between compensation that is granted in cases of successful unequal pay claims and compensation/severance pay that is granted in retaliatory dismissal cases, even when the latter are the result of equal pay claims. In the first case no ceiling can be established by law. In the second case, a ceiling established by law is permissible under the Charter, only if its level is sufficient to make good the damage suffered by the victim and to act as a deterrent to the offender.

The Committee considers that in case of Germany, the maximum compensation of 12 months wages that is established by law is not sufficient to make good the damage suffered by the victim and to act as a deterrent to the offender. Therefore, the situation is not in conformity with the Charter.

Methods of comparison

As regards the job comparisons, the Committee reiterates its request for information (Conclusions 2010) concerning any developments of jurisprudence regarding non-discrimination cases with respect to remuneration and problems encountered in practice by employees who wish to make wage comparisons and who do not work for the same employer. In particular, the Committee asks whether the law prohibits discriminatory pay in statutory regulations or collective agreements, as well as whether the pay comparison is possible outside one company, for example, where such company is a part of a holding and the remuneration is set centrally.

Statistics

The report provides the most recent statistical surveys on the earnings gap between men and women from the Federal Statistical Office. In 2016, the average gross hourly earnings of women (€16.26) were 21% lower than those of men (€ 20.71). In the previous two years, 2014 and 2015, the gender pay gap had been 22%.

According to the report, statistical analysis of the pay gap shows that about three fourths of the unadjusted gender pay gap can be attributed to structural differences. The differential in average gross hourly pay is mainly due to the fact that women and men tend to work in different sectors and occupations and that job requirements in terms of executive functions and skills are unevenly distributed. In addition, women are more likely than men to work part-time or in marginal jobs. The remaining quarter of the pay gap cannot be explained by the characteristics relevant to the workplace. For Germany as a whole this adjusted gender pay gap was 6% in 2014 (unadjusted gender pay gap in 2014: 22%). This means that women with comparable qualifications and jobs earn 6% less than men on average per hour worked. It should be noted, however, that the adjusted gender pay gap would possibly be lower if further factors impacting on wages had been available for analysis. For instance, there was no data on individual behaviour in wage negotiations or on family-related career interruptions. This statistically unexplained part of the earnings gap, or the adjusted gender pay gap, cannot be equated with pay discrimination based on gender. Nevertheless, the explained part of the earnings gap is not non-discriminatory.

The Committee notes from the report that the reasons for the pay gap are complex: in addition to the different career choices – women often work in social or personal services that are paid less than, for example, technical occupations – one reason in particular is the (longer) family-related career breaks and the subsequent re-entry into the labour market in part-time and mini-jobs: 45% of women in jobs with compulsory social insurance coverage work part-time. Also, 3.4 million women are employed exclusively in so-called mini jobs. In addition, women still have worse career opportunities: Women are under-represented in leadership positions, especially the top positions Leadership positions are rarely filled part-time. Role stereotypes and gender-specific attributions still have an influence on job

evaluations, performance appraisals or recruitment and can lead to – usually indirect – discrimination.

The Committee notes that there has not been any significant decrease in the gender pay gap since the previous reference period when it stood at 22%. The Committee asks the next report to provide information concerning the measures taken to address the main causes of the gender pay gap as outlined above.

Policy and other measures

The Committee takes a note of new legal regulations introduced which have had positive effects on the gender pay gap, such as the Act on the equal participation of women and men in management positions, which has introduced a fixed gender quota of 30% for all new appointments to supervisory boards of publicly listed companies. By the Act on funding of childcare for children under the age of three, a legal entitlement to a place in a nursery or daycare centre for all children over the age of one was introduced in 2013, which, according to the report, is a milestone in family policy.

The Committee also notes that the legislation on greater gender equality in terms of wages was drafted during the reference period and entered into force on 6 July 2017 (Entgelttransparenzgesetz (the Equality of Pay Act)). The coalition agreement stated that in order to better realise the principle of “equal pay for equal or equivalent work”, greater transparency must be established, by, amongst other methods, obliging companies with more than 500 employees to comment on the promotion of women and equality of remuneration under legal criteria in the management report in accordance with Section 289 of the German Commercial Code (HGB). Building on this, an individual right to information for employees is to be defined. Companies will be called upon to take responsibility for eliminating identified remuneration discrimination with the help of binding processes and by working together with their workforce, with the involvement of stakeholders in the company. The goal of the Equality of Pay Act is to strengthen enforcement of the principle of "equal pay for equal or equivalent work" for women and men in practice. The Committee wishes to be informed of the implementation of this Act.

Since 2013, the Federal Anti-Discrimination Agency (ADS) has been helping to promote the "eg-check" analysis tool. This equal pay checking tool helps to evaluate the main elements of remuneration (monthly base salary, performance bonuses, overtime pay, additional pay for special challenges) by offering three separate tools: statistics, process analysis and peer-comparisons. In a pilot project, 16 employers reviewed their remuneration system and received a corresponding certificate from the ADS. Since 2017, the ADS has also offered companies an equality check (gb-check), which allows them to assess gender equality in working life. The gb-check is an analytical toolkit that helps employers and advocacy organisations identify discrimination, prevent inequality, and take action to increase equal opportunities through statistics, process analysis, and peer comparisons. The tool is used in the areas of job postings, personnel selection, working and employment conditions, in-service training, assessments and working hours.

The Committee further notes that in addition to drafting the Equality of Pay Act, the Federal Government has launched a social partner dialogue with employers’ associations and trade unions. At the sub-statutory level, measures for fair income prospects are being discussed with employers’ associations and trade unions.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 4§3 of the 1961 Charter on the ground that the maximum compensation of 12 months wages established by law in cases of litigation concerning reprisals is not sufficient to make good the damage suffered by the victim and to act as a deterrent to the offender.

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 Germany.

It has concluded from Conclusions I (1969) onwards that the situation in Germany with regard to the protection of wages was in conformity with Article 4§5 of the 1961 Charter. It asked for a full and up-to-date description of the situation in practice and in law (Conclusions XIX-3 (2010)).

The Committee renews its request for further information and asks that the next report to provide details on: the conditions under which it is permitted for workers to consent to their wages being forfeited, assigned or pledged for the benefit of their employer or third parties; the unattachable portion of wages in the event of attachment of wages or simultaneous deductions on concurrent grounds; any other grounds for deductions from wages (execution of court decisions or administrative orders; fines for criminal or disciplinary offences; maintenance payments or compensatory claims; failure to reach objectives; reimbursements of advances on wage or expenses, etc.). It also asks whether workers are authorized to waive their right to limited deductions from wages.

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 Germany.

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

Personal Scope

The Committee notes that the right to organize for civil servants guaranteed under Article 9§3 of the Constitution is expressly confirmed in Section 116 of the Federal Civil Service Act (*Bundesbeamtengesetz BBG*) and Section 52 of the Act on the Status of Civil Servants (*Beamtenstatusgesetz BeamtStG*) thus binding the Federation and the individual federal states.

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

Conclusion

The Committee concludes that the situation in Germany 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 Germany.

The Committee notes, from the information provided in Germany's report and all the information at its disposal, that the situation which it previously considered to be in conformity with Article 6§1 of the Charter (Conclusions XX-3 (2014)) has not changed.

The report states that the right to organize as provided for in Article 9§3 of the Constitution also protects activities aimed at safeguarding and promoting working and economic conditions including joint consultations. Section 47 of the Joint Rules of Procedure of the Federal Ministries (*Gemeinsame Geschäftsordnung der Bundesministerien GGO*) stipulates the timely consultation of central and collective organisations of workers' and employers' organisations for all legislative measures. The report further states that this is done in practice on a regular basis.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 6§1 of the 1961 Charter.

Article 6 - Right to bargain collectively

Paragraph 2 - Negotiation procedures

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

The Committee notes, from the information provided in Germany's report and all the information at its disposal, that the situation which it previously considered to be in conformity with Article 6§2 of the Charter (Conclusions XX-3 (2014)) has not changed. The report notes that in the period from January 1st 2013 to December 31st 2016 a total of about 21,300 new collective agreements were entered in the register of collective agreements of which about 14,000 were company agreements.

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 6§2 of the 1961 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 Germany.

The report states that, in the reference period, no normative amendments and no new elements were introduced into the system of agreed public conciliation and arbitration. Therefore the Committee reiterates its previous conclusion of conformity

Conclusion

The Committee concludes that the situation in Germany is in conformity with Article 6§3 of the 1961 Charter.

Article 6 - Right to bargain collectively

Paragraph 4 - Collective action

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

Collective action: definition and permitted objectives

German law on collective action, based on Article 9§3 of the Constitution as interpreted by the courts, still prohibits strikes which are not concerned with the conclusion of collective agreements. Since its first conclusion (Conclusion I (1969)), the Committee has found this prohibition not to be in conformity with Article 6§4 of the Charter. It previously (Conclusions XX-3 (2014)) reserved its position in case specific situations might indicate conflicts of interest other than those aiming at concluding collective agreements which cannot be solved by a competent court. However it now reiterates the finding of non-conformity as permitting the right to strike only when aimed at the conclusion of a collective agreement unduly restricts the right to strike.

Entitlement to call a collective action

The Committee previously found the situation not to be in conformity with Article 6§4 on the grounds that the requirements to be met by a group of workers in order to form a union satisfying the conditions for calling a strike constituted an excessive restriction on the right to strike. There have been no changes to this situation. Therefore the Committee reiterates its previous conclusion.

Specific restrictions to the right to strike and procedural requirements

The Committee previously found the situation in Germany not to be in conformity on the grounds that prohibiting civil servants from striking constituted an excessive restriction on the right to strike. There have been no changes to this situation. Therefore the Committee reiterates its previous conclusions.

The Committee recalls that the right to strike is one of the essential means available to workers and their organisations for the promotion and protection of their economic and social interests. In the light of Article 31 of the Charter, “the right to strike of certain categories of public servants may be restricted, in particular members of the police and armed forces, judges and senior civil servants. However, the denial of the right to strike to public servants as a whole cannot be regarded as compatible with the Charter” (cf. Conclusions I (1969)). The Committee also notes that in the case of civil servants who are not exercising public authority, only a restriction can be justified, not an absolute ban (Conclusions XVII-1 (2005) Germany). According to these principles, all public servants who do not exercise authority in the name of the State should have recourse to strike action in defence of their interests.

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

Consequences of a strike

The Committee notes that there have been no changes to the situation under this heading, which it previously found to be in conformity with the Charter.

Conclusion

The Committee concludes that the situation in Germany is not in conformity with Article 6§4 of the 1961 Charter on the grounds that:

- the prohibition on all strikes not aimed at achieving a collective agreement constitutes an excessive restriction on the right to strike and

- the requirements to be met by a group of workers in order to form a union satisfying the conditions for calling a strike constitute an excessive restriction to the right to strike and
- the denial of the right to strike to civil servants as a whole, regardless of whether they exercise public authority, constitutes an excessive restriction to the right to strike.