March 2019

1961 European Social Charter

European Committee of Social Rights

Conclusions XXI-3 (2018)

ICELAND

This text may be subject to editorial revision.

The following chapter concerns Iceland which ratified the 1961 Charter on 15 January 1976. The deadline for submitting the 31st report was 31 October 2017 and Iceland submitted it on 24 September 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" :

- 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).

Iceland has accepted all provisions from the above-mentioned group except Articles 2§2, 2§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 Iceland concern 13 situations and are as follows :

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

– 5 conclusions of non-conformity : Articles 2§1, 4§3, 4§4, 5 and 6§4.

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

Article 4§1

The level of the minimum wage improved in the reference period and is in the process of an ongoing reform which will further continue to raise it. The gradual raise of the minimum wage was agreed in the reference period in two rounds of collective negotiations facilitated by the government. The government committed, in exchange, to adopt measures that would benefit the citizens, i.a. review of the tax system, education reform, reforms in economic policy and the management of public finances, limits for tariffs charged by the state and further measures concerning welfare and housing systems. Moreover, a minimum earnings insurance shall cover the instances for those employees who do not attain the minimum income.

Article 5

Parliament passed an Act in 2010 to repeal the Act on the industry charge. Consequently, the industry charge has not been collected since Act No. 124/2010 entered into force in 2011.

* * *

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 Iceland.

In its previous conclusion (Conclusions 2014), the Committee considered the situation not to be in conformity with the 1961 Charter, on the ground that working hours for seamen could go up to 72 hours per week. In this respect, the Committee found that the Health and Safety at Work Act gave a too broad margin of discretion to the social partners in determining sectors of activity in which working time could be extended up to 16 hours but reserved its position, noticing that a dialogue between social partners was ongoing on this issue. The Committee thus requested to be informed of the developments. It also asked what rules applied to on-call service and whether inactive periods of on-call duty were considered as a rest period in their entirety or in part.

There were no legislative amendments to laws pertaining to the working time matters in the reference period. A review of the Health and Safety at Work Act in collaboration with social partners is ongoing in the light of the previous conclusion of the Committee. Also, a state-run pilot project on the shortening of working time was launched and produced first satisfactory results. The Committee again asks that the next report provides updated information on any developments.

The situation has not changed concerning provisions of the Seamen's Act ruling on the extended working week. The report explains that the special nature of maritime work necessitates flexibility in the working hours to enable seamen to carry out their work in the specific conditions at sea. The Committee understands that special circumstances affect maritime work, which is of great importance for the Icelandic economy. Still, it needs to recall that extremely long working hours, e.g. more than 60 hours in one week (Conclusions XIV-2 (1998), Netherlands), are contrary to the Charter. It thus reiterates its previous conclusion in this respect.

As regards, the on-call service, the report states that under the Working Environment Act, active working time does not include stand-by shifts, call-out shifts, monitoring shifts and the like, as long as the worker was not called upon to do work. 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 as a period of rest, this violated Article 2§1 of the Charter. The situation in Iceland is not in conformity with the 1961 Charter as regards the definition of the working time in relation to the on-call service.

Conclusion

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

- working hours for seamen may go up to 72 hours in one week;
- stand-by duty or the on-call service during which no effective work is performed are assimilated to rest periods.

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 Iceland.

In its previous conclusion (Conclusions (XX-3) 2014), the Committee considered that the situation was in conformity with Article 2§3 of the 1961 Charter with the minimum annual year consisting of 24 paid leave days, not including Sundays and other public holidays. It asked for confirmation that annual leave may not be replaced by financial compensation and employees must not have the option of giving up their annual leave.

The report confirms that under the Annual Leave Act it is forbidden to assign leave pay and to transfer it between leave-calculation years. The Act provides for the possibility of transferring annual leave in cases involving illness on the part of employees. The Committee thus reiterates its positive conclusion.

Conclusion

The Committee concludes that the situation in Iceland is in conformity with Article 2§3 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 Iceland.

It notes that there have been no changes to the situation which it has previously found to be in conformity with the Charter and asks that the next report provides a full and up-to-date description of the situation in law and practice in respect of Article 2§5.

Conclusion

The Committee concludes that the situation in Iceland is in conformity with Article 2§5 of the 1961 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 Iceland.

In its previous conclusion (Conclusions XX-3 (2014)), the Committee concluded that, together with a number of transfers and benefits in force in 2012 (a tax-free income ceiling, tax credit, child benefits, housing benefits), the minimum wage was adequate to ensure a decent standard of living within the meaning of Article 4§1 of the 1961 Charter. It observed that the minimum wage applicable to unskilled workers employed full-time (162 628 ISK), net of old age contributions and tax deductions, represented 55% of the net average wage.

The level of the minimum wage improved in the reference period and is in the process of an ongoing reform which will further continue to raise it. The Committee notes from the report that in 2016 the minimum wage (260 000 ISK) amounted to 71% of the net average wage (362 584 ISK). The gradual raise of the minimum wage was agreed in the reference period in two rounds of collective negotiations facilitated by the government and it shall reach 300 000 ISK in 2018 (280 000 ISK in 2017). The government committed, in exchange, to adopt measures that would benefit the citizens, i.a. review of the tax system, education reform, reforms in economic policy and the management of public finances, limits for tariffs charged by the state and further measures concerning welfare and housing systems. Moreover, a minimum earnings insurance shall cover the instances for those employees who do not attain the minimum income.

The Committee pointed in its previous conclusion to the fact that in 2012, 7.9% of the population faced the risk of poverty and 12.7% the risk of poverty or social exclusion, with an average wage that was significantly lower than the minimum agreed wage level (156 000 ISK). It thus deferred its conclusion and asked for information on the coverage rate of collective agreements in the private and public sectors and on pay in branches or trades not governed by collective agreements, as well as on the level of social benefits.

In reply, the report explains that all employers in Iceland are under obligation to abide by the provisions of the collective agreements on minimum wages. Any individual agreements on inferior terms of employment are invalid and not binding for the employee. The report further stated that the at-risk-of-poverty rate, defined as those with less than 60% of the population's median equivalized disposable income, was 8.8% in 2016, compared with 9.3 in 2012, despite the poverty-level wage set 33% higher. During the reference period, there were various and comprehensive measures taken, and will continue to be adopted, with a view to increasing the disposable income for all wage-earners and to considerably raise the minimum wage level. Changes include a simplification of the income tax system, raise in a personal tax credit, moves to even out the burden of pension payments between the pension funds, abolition of import duties on clothing, reduction in charges for medical attention, allocations to higher school education and vocational training. There were also several increases in the social and other benefits for workers. Housing benefit and rent benefit are granted to support private rental market and to reduce the housing costs faced by lower-income tenants, accompanied by tax amendments so as to reduce rents and increase the supply of rental accommodation, together with a fully refundable tax credit to purchasers of personal dwellings. The rent benefit can, at its maximum level, amount to 75% of rent, comparing to 50% in the previous reference period. Child benefit increased by approximately 20%. Maternity / paternity leave payments amount to 80% of average aggregate wages and rose in the reference period by 6%. There is also a monthly grant to a parent who is not on the labour market or is working less than a 25% position.

The Committee considers that the right to a fair remuneration, providing for a decent standard of living within the meaning of Article 4§1 of the Charter, is sufficiently guaranteed in Iceland. It asks for the next report to provide a comprehensive update of the information, in particular as to the conclusion of the pending reforms and their effect on the level of wages and the disposable income, in particular for the persons at the risk of poverty.

Conclusion

The Committee concludes that the situation in Iceland is in conformity with Article 4§1 of the 1961 Charter.

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 Iceland.

It notes that there have been no changes to the situation which it has previously found to be in conformity with the Charter. As the detailed and comprehensive information dates back to the period 1993-1996, followed by some sectorial examples of 2009-2012, the Committee asks that the next report provides a full and up-to-date description of the situation in law and practice in respect of Article 4§2.

Conclusion

The Committee concludes that the situation in Iceland 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 Iceland.

Legal basis of equal pay

The Committee notes that Article 19 of the Gender Equality Act is intended to ensure that women and men receive the same wages and enjoy the same terms for equal work or different works that are evaluated as having equal value. According to the report, Regulation No. 929/2014, on the certification of equal pay systems of companies and institutions according to the ÍST 85 Standard, was issued under the authorisation of the fourth paragraph of Article 19 and of Article 33 of the Gender Equality Act, No. 10/2008, with subsequent amendments. The aim of the Regulation was to have the equal pay systems of companies and institutions certified in accordance with international demands applying to certification and certification bodies. Companies and institutions that meet the requirements of the standard are then able to obtain certification stating that their procedures and decision-making regarding wages do not involve gender discrimination.

According to the report, the standard is the only one of its type in the world, and was the result of collaboration extending over many years between the federations of workers and employers and the Government. The aim in constructing the standard was to find a way of eradicating the gender pay gap so that the same wages will be paid for the same work, or for work of equal value, as is provided for in the Gender Equality Act. By adopting the standard, companies and institutions are able to set up management systems that will ensure that decisions on pay are based on relevant considerations and do not involve gender discrimination.

The Committee notes that a professionally accredited certification body assesses whether all the requirements of the standard have been met, and hence whether the entity in question can be granted equal pay certification. It is envisaged that the organisations of the social partners will be able to include provision in their collective agreements to the effect that companies or institutions with staff numbers lying within a particular range will be able to acquire equal pay certification, with confirmation from the relevant players on the labour market that their equal pay systems are in line with the requirements of the standard. In cases where a company or institution has not acquired equal pay certification, or a renewal of its certification, by the deadline given, the Centre for Gender Equality may require it to take satisfactory measures to rectify the situation within a suitable period, failing which it shall be subject to *per diem* fines.

The Committee asks the next report to provide information about the implementation of these legislative developments, including statistics on equal pay certifications granted and fines issued.

Guarantees of enforcement and judicial safeguards

The Committee has previously concluded (Conclusions 2014) that the situation in Iceland was not in conformity with the Charter on the ground that the Icelandic law does not provide for reinstatement in cases where an employee is dismissed in retaliation for bringing an equal pay claim.

In this connection, the report reiterates that under the Gender Equality Act, an employee who seeks redress on the basis of the Act may not be dismissed for that reason. However, according to the report, it is not compatible with Icelandic law to put individuals into employment positions by a court order. This applies equally when the employer does not wish to engage with a particular worker or when the worker does not wish to do the work. This is a basic principle which applies to the Icelandic labour market according to a very long tradition and has often been confirmed by case law. In general, an employer is free to

engage or dismiss workers. He/she is, however, bound by the rules applying to these activities in law, collective agreements and employment contracts. In the same way, the worker has the choice of whether or not he/she is prepared to accept a particular job. In cases of violation of the Gender Equality Act when people have not been engaged, or have been dismissed from a job, the remedy applied by the courts has been to award compensation to the person concerned so as to put him/her in the same position as he/she would have been in if he/she had been engaged or retained the job.

The Committee recalls that in the event of retaliatory dismissal, the remedy should in principle be reinstatement in the same job or a job with similar duties. Only when reinstatement is not possible or the employee has no desire to be reinstated, should damages for retaliatory dismissal in addition to the compensation for the dismissal be paid instead. The Committee notes that there have been no changes to the situation which it has previously found not to be in conformity with the Charter. Therefore the Committee reiterates in previous finding of non-conformity.

According to the report the Gender Equality Complaints Committee ruled in 30 cases in the reference period. The Gender Equality Complaints Committee received five cases in 2013, nine cases in 2014, ten cases in 2015 and six cases in 2016. The Gender Equality Complaints Committee found a violation of the Act in 14 of the cases brought before the Gender Equality Complaints Committee. These cases concerned employment engagements, discmissals and discrimination in wages. The Committee notes that none of the cases were brought before the Supreme Court of Iceland during the reference period.

Methods of comparison

In its previous conclusion the Committee asked whether in equal pay litigation cases it was possible to make comparisons of pay and jobs outside the company directly concerned.

According to the report, there have been considerable changes in the way businesses have been run in recent years. The term ‘same employer’ therefore refers to businesses that are linked by ownership ties, such as parent companies and subsidiaries. Thus, it is possible to make comparisons of pay and jobs outside the company directly concerned provided that the businesses are linked by ownership ties.

Moreover, an amendment was made to the definition of direct discrimination, by which direct discrimination is deemed to have been practised when an individual receives less favourable treatment than another of the opposite sex in comparable circumstances receives (or would receive). Thus, individuals are able to compare their wages with those of other individuals of the opposite sex who have been in comparable circumstances (e.g., a predecessor in the same job) or, if no actual person of the opposite sex is available for direct comparison, the treatment that would be received by an imagined individual of the opposite sex in comparable circumstances. This could therefore apply in the case of a traditionally male-dominated or female-dominated sector in which there are few individuals of either sex when comparing wages between women and men.

Statistics

According to the report, gender equality and the gender pay gap have been the subjects of a great deal of discussion in Iceland. Equal pay has been one of the main issues in efforts to secure gender equality on the labour market. Many wage surveys and studies of gender equality on the labour market with regard to wage discrimination have been carried out, all with different points of emphasis. The findings indicate that the gender pay gap has still not been abolished, even though some important progress towards this goal has been made.

The Committee notes that the gender pay gap based on regular hourly rates for all workers, on the one hand, and on aggregate wages of workers in full employment on the other decreased from 19.3% in 2013 to 15% in 2016.

Policy and other measures

The Committee takes note of the measures taken with a view to implementing the Equal Pay Standard. A draft 'toolkit' for the introduction of the standard was drawn up, consisting of a checklist, blueprints for project schedules and a calculation model for job categorisation. Workshops were developed to help those who intended to adopt the standard. The Committee also takes note of the pilot project on the introduction of the Equal Pay Standard. The insurance company VÍS, which had taken part in the pilot project from the outset, received certification. Of the 11 state bodies, two municipalities and eight private companies that participated in the pilot project, three state bodies, one municipality and two private companies have received certification. According to the report, more state bodies and private companies are well advanced in the process and are awaiting audits and, subsequently, certification. In addition, some companies and institutions have adopted the standard during this time and have received certification, but were not part of the pilot project. The companies and institutions that took part in the pilot project reported great satisfaction with it. They say equal pay certification should be made a priority in their operations.

The Committee asks the next report to provide information about implementation of the standard as well as its impact of reducing the gender pay gap.

Conclusion

The Committee concludes that the situation in Iceland is not in conformity with Article 4§3 of the 1961 Charter on the ground that the law does not provide for reinstatement in cases where an employee is dismissed in retaliation for bringing an equal pay claim.

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 Iceland .

It previously concluded (Conclusions XVIII-2 (2007), XIX-3 (2010) and Conclusions XX-3 (2014)) that the situation in Iceland was not in conformity with Article 4§4 of the 1961 Charter, on the ground that two weeks' notice period provided for in the collective agreement applying to skilled construction and industrial workers was not reasonable beyond six months of service.

In reply to the Committee's previous finding of non-conformity, the report explains that the two weeks' notice period applies to employees during their first year of service, while after the first year of service in the same occupation the applicable notice period is of 1 month. The report also states that these provisions will be amended after collective negotiations in 2018-2019. The Committee requests up-dated information in this regard. Meanwhile, the Committee considers that the two weeks' notice period is not reasonable for skilled and industrial workers with more than 6 months and less than a year of service.

In its previous conclusion (Conclusions 2014), the Committee requested information on notice periods and severance pay provided for by collective agreements applying to other groups of employees (general and special workers; employees in commerce; electrical workers; seamen and skilled construction; industrial workers; tenured civil servant; government and municipal employees).

The report indicates the general notice periods provided for by the Notice of Termination and Illness Entitlement Act, which establishes 1 months' notice for 1 year of service in the same occupation, 2 months' notice after 3 years of service with the same employer and 3 months' of service after 5 years of service with the same employer. The notice period for employees during their first year of employment is regulated by collective agreements. Longer notice periods may be agreed in individual employment contracts. Severance pay is not provided for by law, but it may be established by collective agreement.

The report provides detailed information on notice periods established by collective agreements. The Committee notes that certain collective agreements provide for very short notice periods.

More specifically, for Special and General Workers, no notice period is provided for termination of employment for employees with 2 weeks of service. For employees in the Food and Catering Industry, no notice period is provided for employees with less than 1 month service,.

The Committee considers that the situation is not in conformity with Article 4§4 of the Charter, on the grounds that no notice periods are provided for special and general workers with less than 2 weeks of service and for employees in food and catering industry with less than one month of service.

As regards seamen, the report indicates that, pursuant to Seamen's Act No. 35/1985, the notice period applicable to seamen working in vessels is 1 month and for seamen in Icelandic fishing vessels, 7 days. The Committee considers that the situation is not in conformity with Article 4§4 of the Charter on the ground that notice periods are not reasonable for seamen working in vessels with more than three years of service and for seamen working on Icelandic fishing vessels with more than three months of service.

In reply to the Committee's question on notice periods and/or severance pay applying to early termination of fixed-term contracts and during the probationary period, the report indicates that, in principle, early termination of fixed-term contracts is not possible, unless otherwise agreed. It also states that for state and municipality employees, the notice period for early termination of fixed-term contracts is 1 month. As regards termination of employment during the probationary period, the report indicates that both probationary

periods and notice periods during the probationary period, are established by collective agreements. The report refers to the collective agreements between VR (union of employees working in commerce) and the SA (employer's association), which provides for probationary period of 3 months and a notice period of 1 week. It also refers to the collective agreement between SFR (union of public servants) and the state, which provides for probationary period of 3 months and a notice period of 1 month.

In its previous conclusion (Conclusions 2014), the Committee requested information on notice periods and and/or severance pay applicable to cases of termination of employment other than dismissal (bankruptcy or winding up of the employer; death of the employer; temporary incapacity for work etc.). The report does not provide specific information on notice periods and/or severance pay in this regard. The Committee therefore reiterates its previous questions.

Conclusion

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

- two weeks' notice period is not reasonable for skilled and industrial workers with more than 6 months and less than a year of service;
- no notice period is provided for special and general workers with less than 2 weeks of service and for employees in food and catering industry with less than one month of service;
- notice periods are not reasonable for seamen working in vessels with more than three years of service and for seamen working in Icelandic fishing vessels with more than three months 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 Iceland .

In its previous conclusion (Conclusions XX-3 (2014)), the Committee held that the situation in Iceland was not in conformity with Article 4§5 of the 1961 Charter on the ground that, after maintenance payments for children and other authorised deductions, the wages of workers with the lowest pay do not allow them to provide for themselves or their dependants.

In its previous conclusion (Conclusions XX3 (2014)), the Committee asked the next report to provide information on the absolute limits to silmultaneous deductions on competing grounds.

In reply, the report states that, pursuant to Article 2 of the Regulation on Deductions from Wages, the employer may deduct up to 75% of the employees total wage. The maximum proportion of the wage deducted must be in accordance to the safeguards provided under Icelandic law to ensure that workers can provide for themselves and their dependents. The Committee asks the next report to provide more specific information on these safeguards.

Concerning wage deductions for the maintenance of a child, the relevant deductions from the employee's wage can be reduced while difficult social conditions, such as low wage and number of dependant members are taken into consideration. In cases where the employee is not able to pay due to his/her continuing social and financial conditions, the Child Support Collection Centre may decide to waive the debt, partially or fully, under the condition that the employee respected the obligations provided for by the payment plan for at least three years

According to the report, there is no provision, which allows employees to waive the protection provided by law.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Iceland is in conformity with Article 4§5 of the 1961 Charter.

Article 5 - Right to organise

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

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

Freedom to join or not to join a trade union

In its previous conclusions (Conclusions XIX-3 (2010), XX-3, (2014)) the Committee concluded that the situation was not in conformity with Article 5 of the 1961 Charter, on the ground that the existence of priority clauses in collective agreements which give priority to members of certain trade unions in respect of recruitment and termination of employment infringed the right not to join trade unions.

The report provides no new information on this issue; it simply refers to previous reports. The Committee therefore reiterates its conclusion of non-conformity.

The Committee previously noted the judgment of the European Court of Human Rights of 27 July 2010 (Vörður Ólafsson v. Iceland), which concerns a violation of Article 11 of the European Convention of Human Rights on the ground that the statutory obligation on an employer to pay the industry charge had amounted to an interference with his right not to join an association. The Committee concluded that the obligation on an employer to pay the industry charge infringes the right to organise, and also constituted a violation of Article 5 of the 1961 Charter Conclusions XX-3, 2014).

According to the report Parliament passed an Act in 2010 to repeal the Act on the industry charge. Consequently, the industry charge has not been collected since Act No. 124/2010 entered into force in 2011. The Committee finds the situation to be in conformity now on this point.

Conclusion

The Committee concludes that the situation in Iceland is not in conformity with Article 5 of the 1961 Charter on the ground that the existence of priority clauses in collective agreements which give priority to members of certain trade unions in respect of recruitment and termination of employment infringes the right not to join trade unions.

Article 6 - Right to bargain collectively

Paragraph 1 - Joint consultation

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

The Committee previously found the situation to be in conformity with the1961 Charter. The report states that there has been no change to the situation.

The Committee **thus** reiterates its previous conclusion.

Conclusion

The Committee concludes that the situation in Iceland 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 Iceland .

The Committee previously found the situation to be in conformity with the 1961 Charter, however it requested information on the outcome of the report drawn up by the social partners entitled Approaching collective agreements. **The Committee notes the information provided in this respect.**

According to the report in 2013 the proportion of unionised workers was 79%, while about 89% were paid according to collective agreements. In 2016 the proportion paid according to collective agreements was 90%. The Committee infers from this that the great majority of workers are covered by a collective agreement.

Conclusion

The Committee concludes that the situation in Iceland 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 Iceland .

The Committee previously found the situation to be inconformity with the Charter but requested further information on arbitration procedures.

According to the report If Parliament passes legislation banning a strike, such legislation contains a provision on a court of arbitration. The Committee infers from this that arbitration procedures are established ad hoc in these cases, however it asks for information on the possibility of the parties voluntarily wishing to have recourse to arbitration in the event of a labour dispute.

The Committee recalls that it considers situations in which legislation was enacted during the reference period to terminate collective action through compulsory arbitration under Article 6§4 of the 1961 Charter.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Iceland 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 Iceland.

It examined the situation with respect to collective action (definition, entitlement to call a collective action) in its previous conclusion (Conclusions XX-3 (2014)) and found the situation to be in conformity with the 1961 Charter. It will therefore only consider recent developments and additional information in this conclusion.

Collective action: definition and permitted objectives

The Committee previously noted that social partners have taken the view that it is not lawful to call strikes while the collective agreements between them are still valid. The Committee asked if strikes not aimed at concluding a collective agreement are prohibited in Iceland (Conclusions XX-3, 2014).

According to the report while collective agreements are in force, there is an obligation to keep the peace, i.e., the parties who are bound by a collective agreement may not, during the term of the agreement, strike over matters covered by the agreement. However strikes that have other aims are not in violation of this obligation.

Specific restrictions to the right to strike and procedural requirements

The Committee recalls that it takes into consideration situations in which legislation was enacted during the reference period to terminate collective action through compulsory arbitration under Article 6§4 of the 1961 Charter.

During the reference period, Parliament intervened in disputes on several occasions.

On 12 April 2014, the Parliament passed a law ending strike action by the Icelandic Seamen's Union on the ferry Herjólfur VE, which had begun on 5 March the same year. The strike meant that work on the ferry came to an end between 5.00 p.m. and 08.00 a.m. the following day, and no work at all was allowed at the weekend. Then, from and including 21 March 2014, the strike also included the whole day on Fridays, with the result that the ferry sailed only four days a week between *Vestmannaeyjar* (a group of islands off the south coast of Iceland), and the mainland. The bill which was passed as law ending the strike action emphasised the special position of the islands with respect to transportations with the mainland as being evident and unequivocal. Transport of goods between the mainland and the islands is effected mainly by sea, as a consequence of which the strike had a negative impact on business operations in the islands, in addition to the impact on the people of the islands who depended on the ferry to access essential services of many types on the mainland.

The Committee considers that although the justification for terminating the strike was the protection of the rights and freedom of others (and the economy), it has not been demonstrated that the conditions of Article 31 of the 1961 Charter have been fulfilled namely it was necessary in a democratic society. In order to be satisfied that the conditions of Article 31 of the 1961 Charter had been fulfilled the Committee would have needed further information on the essential services denied to the inhabitants, lack of hospital care, other modes of transport etc. Therefore the Committee concludes that the situation is not in conformity with Article 6§4 of the 1961 Charter, on the ground that during the reference period the legislature intervened in order to terminate collective action in circumstances which went beyond those permitted by Article 31 of the 1961 Charter.

On 15 May 2014, Parliament passed a law ending strike action by pilots working for the airline Icelandair. The strike involved an open-ended ban on working overtime and a temporary strike which, together, were supposed to span the period 9 May to 3 June 2014. The industrial action by the pilots' association was to cover the 300 pilots at Icelandair and

would affect about 600 flights to and from the country, disrupting the travel plans of about 100,000 passengers during the 9 days that the temporary strike was supposed to last. In the bill which was passed as a law banning the action, reference was made to the economic interests at risk, i.e. the income that would be lost by the tourist and seafood-exporting industries.

The Committee notes that in the case at hand, even though a work stoppage in the aviation sector may have had important consequences on the economy and this being the primary consideration on which state intervention to terminate the strike was based, it has not been established that such intervention falls within the limits of Article 31 of the 1961 Charter, namely that it was necessary for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals. It considers that the situation is not in conformity with Article 6§4 of the 1961 Charter, on the ground that during the reference period the legislature intervened in order to terminate collective action in circumstances which went beyond those permitted by Article 31 of the 1961 Charter.

Likewise it considers that the termination of the strike by air traffic controllers in June 2016 did not fall within the limits of Article 31 of the 1961 Charter.

On 13 June 2015 the Parliament passed legislation against industrial action by the Alliance of University Graduates (BHM) and the Icelandic Nurses' Association, In the bill which was passed as the Act on the Wages and Terms of Certain Unions within BHM and the Icelandic Nurses' Association, it was stated that it was necessary to respond to the widespread disruption that the strike entailed, particularly in the health services.

The Committee considers that although the justification for terminating the strike was the protection of the rights and freedom of others (and the economy), it has not been demonstrated that the conditions of Article 31 of the 1961 Charter have been fulfilled namely it was necessary in a democratic society.It considers that the situation is not in conformity with Article 6§4 of the 1961 Charter, on the ground that during the reference period the legislature intervened in order to terminate collective action in circumstances which went beyond those permitted by Article 31 of the 1961 Charter.

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

Consequences of a strike

During a strike, the main obligations of an employment contract are suspended, but the contractual relationship remains in force. Thus, wage payments are suspended, as are the corresponding obligations of the worker to carry out work. A strike is a collective action which affects the trade union first and foremost; it does not interfere with the contractual relationship between individual workers and their employer.

Conclusion

The Committee concludes that the situation in Iceland is not in conformity with Article 6§4 of the 1961 Charter on the ground that that during the reference period the legislature intervened in order to terminate collective action in circumstances which went beyond those permitted by Article 31 of the 1961 Charter.