Observations

Observations by the German Trade Union Confederation (Deutscher Gewerkschaftsbund – DGB)

In relation to the First NAP Report (2026) to the Council of Europe submitted by the Federal Government of Germany in accordance with Articles 22 and 23 of the European Social Charter, “Status of ratification and obstacles regarding non-ratified provisions (NAP) of the Revised European Social Charter (RESC)”

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Kontaktperson:
Deutscher Gewerkschaftsbund
Bundesvorstand
Abteilung Recht und Vielfalt

rec@dgb.de

Keithstraße 1
10787 Berlin

www.dgb.de

Inhalt

The German Trade Union Confederation (Deutscher Gewerkschaftsbund – DGB) and its affiliated unions welcome the opportunity to submit their Observations regarding the status of ratification and obstacles to the non-ratified provisions (NAP) of the Revised European Social Charter (ESC[1]) submitted by the Federal Government of Germany.

[1] Where reference is made to the ‘ESC’, this is to be understood as referring to the RESC, unless expressly stated otherwise (also ‚ESC 1961‘).

Stark in Arbeit.

1 Introduction

The DGB and its affiliated unions once again reiterate their criticism of the reporting system; we refer to our previous statements on this matter.[2]

In its current form, the reporting system is opaque and unnecessarily complicated. The various reporting obligations and their deadlines, which vary depending on whether the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints has been ratified, are difficult to understand and hard to follow.

In addition, the DGB and its member trade unions once again request the Government of the Federal Republic of Germany to ratify the remaining provisions of the ESC (see below), as well as the Protocol Amending the European Social Charter (Turin, 21.X.1991) and the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints.

2 Observations on the report

2.1 General Observations

In the NAP report, the Federal Government explains why the provisions in question cannot be accepted under the current legal status quo. From the perspective of the DGB and its affiliated unions, most of the not accepted provisions can in fact be accepted even under the current legal framework (see below).

In its report, however, the Federal Government explains why, in its view, these provisions cannot be accepted at present. However, it makes no mention of changing this legal status quo to accept more of the ESC's provisions. The fact that the Federal Government appears to rule out even the slightest legal changes to ensure compliance with ESC standards is not in line with the commitment to international law or the welfare state, and is explicitly criticised by the DGB and its affiliated unions.

2.2 Art. 4§4

The Federal Government regards Section 622§4 of the German Civil Code (BGB) as an obstacle to the adoption of Art. 4§4 ESC. This provision stipulates that the contracting parties undertake to recognise the right of all employees to a reasonable period of notice. The DGB and its affiliated unions do not share this view. In the opinion of the DGB, the possibilities provided for in collective

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[2] Observations by the DGB in relation to the 42nd Report on the Application of the Revised European Social Charter submitted by the Government of the Federal Republic of Germany with further references (available here: 1680b6bc98).

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agreements to amend the statutory notice period in accordance with Section 622§4 BGB do not prevent reasonable notice periods from being granted.[34]

Nor should the exceptional cases referred to by the Federal Government under Section 626 BGB constitute an obstacle to ratification, as these do not involve cases of serious culpable misconduct on the part of employees that would justify dismissal without notice. From a legal systematics perspective, they do not fit within the scope of Section 626 BGB, and in fact they do not constitute dismissals without notice either. The legislature and the labour courts must find alternative ways of regulating these exceptional cases – for example, by means of a social notice period – rather than through Section 626 BGB. In this respect, from the DGB's perspective, if the legislature were to introduce new provisions governing the aforementioned scenarios outside the scope of Section 626 BGB, there would be no contradiction between the ESC and German employment protection legislation, meaning that Art. 4§4 ESC should be ratified.

2.3 Art. 7§1

The Federal Government regards Section 7 of the Youth Employment Act (JArbSchG) as an obstacle to the ratification of Article 7§1 ESC, as children who are no longer subject to full-time compulsory schooling are permitted to commence vocational training as early as the age of fourteen, without any restrictions on the content of the training, and may be employed in accordance with the regulations applicable to young people. This applies to children who started school at the age of five and whose compulsory schooling lasts only nine years. The same applies in cases where children have skipped a school year and obtained their school-leaving certificate early.

However, the information available to the DGB and its affiliated unions suggests that there are no longer any such cases. The Federal Employment Agency's methodology report of November 2023 on trainees in employment statistics and in comparison with other statistics states on p. 14 that, in December 2021, 8.4 per cent of trainees were aged between 15 and under 20, and 46 per cent were aged between 20 and 25.[5] There are no figures available for those under 15. According to the experience of the DGB's Youth Department, however, almost every company has trainees over 25 and even over 40 years of age. In this respect, given the lack of practical relevance of Section 7 JArbSchG, Art. 7§1 ESC should be accepted by Germany.

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[3] Thus, under the EACSR, a deviation from the statutory notice periods through collective agreements does not, in itself, lead to non-compliance with Article 4§4 ESC, Conclusions 2018 - Sweden - Article 4-4.

[4] Nor did the ECSR rule that the provision was non-compliant simply on the grounds that, under certain conditions, agreements may be entered into between employees and employers which allow for a notice period of less than one month, Conclusions 2018 - Norway - Article 4-4.

[5] BA 2023 Methodenbericht-Auszubildende-Beschaeftigungsstatistik.pdf.

Furthermore, under Section 14§1(5) of the Vocational Training Act (BBiG), training employers must ensure that trainees are protected from moral and physical danger. Trainees may only be entrusted with tasks that are commensurate with their physical abilities (Section 14§3 BBiG). Training employers must take the trainees' individual development into account. In view of these protective provisions, it seems doubtful that there is any conflict between Article 7 ESC and the commencement of vocational training for those under the age of 15.

2.4 Art. 10§5

The Federal Government justifies its decision not to ratify Article 10(5) primarily on the grounds that, owing to the complexity and broad scope of the provision, its implementation would require the involvement of countless ministries, authorities and business sectors across a wide range of issues; the scope and interpretation of the provision are too vague, and that ratification would entail considerable uncertainty for the German legislature. Furthermore, the interpretation that foreign nationals must be treated equally with respect to financial support would be incompatible with the existing system. Nor does the Federal Government consider ratification to be an option with regard to the Act on the Promotion of Vocational Advancement Training.

For the DGB and its affiliated unions, the German Government's continued non-acceptance of this provision runs counter to a clear commitment to the right to education.

Despite some progress, social selectivity in the education system remains pronounced. The promise of social mobility through education still does not apply equally to everyone. Those from low-income households or without an academic background are less likely to attain higher educational qualifications. The central aim of the DGB and its affiliated unions therefore remains: educational opportunities must not depend on one's family background, place of residence, gender, nationality, individual ability or any disability. Everyone has a right to a good education.

Without accepting this provision, access to education remains de facto unequal, as financial, regional and social barriers persist in many places. By failing to accept Art. 10§5 ESC, Germany is evading binding European oversight that could ensure Member States take measures to tackle educational poverty, discriminatory barriers to access and inadequate early childhood support. This undermines social cohesion and jeopardises equal opportunities — particularly for children from low-income or migrant households.

The **National Education Report 2026** (**Nationaler Bildungsbericht 2026**)[6] describes the German education system as being under constant structural and operational pressure. Despite falling child numbers, key challenges continue to intensify. The federal and state governments must make a well-resourced and

[6] Bildung in Deutschland 2026. Ein indikatorengestützter Bericht mit einer Analyse zu Bildungsungleichheiten nach sozialer Herkunft.

sustainable education system a priority. Without a consistent investment and staffing strategy, there is a risk that declines in quality and social inequality will worsen further. In light of the current education report, it is clear that, without a comprehensive initiative to attract and retain skilled staff, better working conditions and a consistent focus on educational equity, the situation will continue to deteriorate.

Furthermore, the German Government's reasoning is not consistent with the European Pillar of Social Rights (EPSR), which emphasises in its first chapter: „Everyone has the right to quality and inclusive education, training and life-long learning to maintain and acquire skills that enable them to participate fully in society and manage transitions in the labour market successfully."

In 2021, the European Commission presented an action plan for the further implementation of the EPSR. All Member States (including Germany) subsequently developed national targets designed to contribute to the achievement of the overarching EU objectives.

The Federal Government has set the following national targets:

- Increasing the employment rate to 83 per cent,
- Increasing participation in further education to 65 per cent,
- Reducing the number of people in households with very low labour force participation by 1.2 million (including 300,000 children)

Without a right to education, without a legal obligation to ensure free and inclusive education at all levels, and without adequate standards for integration and language support for children with migrant backgrounds, these targets cannot be achieved.

2.5 Art. 21

Article 21 sets out the effective exercise of employees' right to information and consultation. It stipulates that employees must be kept regularly informed of their company's economic and financial situation and must be consulted in good time on certain business decisions.

In Germany, these rights are, in principle, safeguarded in particular by the Works Constitution Act, the federal and state laws on staff representation, and the laws on employee representation within the church sector.
In its report, the Federal Government does not mention that employees are also represented by staff councils ("Personalräte") and church employee representative bodies. ("kirchliche Mitarbeitervertretung") Unlike a works council, the formation of a staff council is mandatory once a certain threshold is reached (see Section 13§1 of the Federal Staff Representation Act (BPersVG)).

However, not all employees benefit equally from the provisions of the Works Constitution Act (BetrVG), as many companies do not have a works council.

The Federal Republic of Germany has not yet accepted Article 21 and, in this report, refuses to accept it further. The reason given is that the requirements of the Article presuppose that the rights to information and consultation in fact cover all, or at least the vast majority, of employees. This is not guaranteed, it is argued, due to the lack of a statutory obligation to establish a works council.

This view must be rejected. There is no basis, either in the wording of the provision or in the published interpretative materials of the ECSR, for the assumption that Art. 21 ESC requires a majority of employees to be effectively represented by employee representative bodies. Rather, Article 21 obliges the States Parties to 'take or promote measures' enabling workers or their representatives to exercise their rights to information and consultation. The purpose of this guarantee is therefore to provide an effective legal and institutional framework, not to ensure the actual existence of a workers' representative body in every single workplace. Thus, in the case of Norway, for example, the ECSR considered it sufficient for compliance that only those workplaces with more than 50 employees were covered.[7] In the case of Ukraine, the ECSR was informed, upon enquiry, that only 3.3 per cent of employees in state-owned enterprises benefit from such representation.[8] Although the EASR considered this figure to be very low and requested further information, compliance was nevertheless confirmed. In the case of Belgium, the EASR expressly confirmed compliance, even though 'only' 38.35 per cent of employees work for companies that meet the threshold of 50 employees – which, in Belgium, is the threshold for mandatory participation, even in the absence of employee representation.[9]

Under the Works Constitution Act, employees in workplaces with, as a rule, at least five employees eligible to vote have the opportunity to elect a works council. In the public sector, the establishment of staff representative bodies is provided for by law; the scope of co-determination is correspondingly extensive in that sector. Germany thus has a legal and institutional framework that enables the ratification of Article 21 ESC.

The obstacles to ratification cited by the Federal Government therefore do not exist. Ratification of Article 21 is legally possible, objectively necessary and long overdue.

Regardless of this, the prevalence of employee representative bodies in Germany remains insufficient. The Federal Government should therefore take immediate action to promote the establishment and continued existence of works councils effectively.

This includes, in particular, comprehensive protection for employees who initiate or support works council elections. Above all, those who take the

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[7] Conclusions 2018 - Norway - Article 21; see also Conclusions 2014 - Belgium - Article 21.

[8] Conclusions 2018 - Ukraine - Article 21.

[9] Conclusions 2014 - Belgium - Article 21.

initiative to establish works councils must be protected from reprisals through improved protection against dismissal and discrimination. Measures known as 'union busting', which aim to prevent or hinder co-determination within the workplace, must be effectively prosecuted and subject to sustained sanctions. To this end, such offences must be classified as offences prosecuted ex officio.

Furthermore, fundamental reforms to co-determination rights under the Works Constitution Act and the Staff Representation Act are required. This is the only way to ensure, in the long term, that employees' interests are effectively represented in a globalised, digitalised and increasingly fragmented world of work. The DGB and its member trade unions have put forward comprehensive proposals for reform in this regard[10].

The DGB and its affiliated unions also propose placing greater emphasis on employers' responsibility for the success of social partnership. This involves more than just strict neutrality about works council elections. In companies without a works council, the central or combine works council should be granted the right to convene works meetings to inform employees about the duties, rights, and importance of a works council.

Particularly in companies where there is neither a central works council nor a combine works council, employers must be held more accountable. To this end, they should be legally required to hold regular information sessions on the election, duties and rights of works councils, to invite the trade unions represented within the company to attend these sessions, and to ensure that employees are provided with objective information. Such a provision would also underline the necessary neutrality of employers about the formation of employee representative bodies.

From the perspective of the DGB and its affiliated unions, it is therefore necessary to accept Article 21 of the ESC. Despite the shortcomings in the legal status quo regarding works councils, staff councils and church staff representative bodies, it is already possible – and indeed necessary – to accept Art. 21 ESC at this stage.

2.6 Art. 22

Article 22 governs employees' right to participate in the determination and improvement of working conditions and the working environment. The Federal Government opposes ratification primarily because – as with Article 21 (see above) – employee participation takes place chiefly through their representative bodies, in particular works councils. Where works councils exist, they have extensive participation rights that go beyond the requirements of Article 22. The Federal Government sees the problem as lying in the fact that only around 35 per cent of employees are now represented by works councils.

[10] Reformvorschlag Betriebsverfassungsgesetz (Synopse) - AuR-Blog.

Full compliance with the provisions of Article 22 would not be guaranteed. Therefore, Article 22 cannot be ratified.

The DGB and its member trade unions disagree with this view. Just as with Article 21, the wording of Article 22 does not require that the majority, or even a specific proportion, of employees be included in the participation process. Article 22 requires States Parties to adopt measures and regulations that enable such participation. The extent to which employees are required to make use of these provisions cannot be inferred from Article 22. The Federal Government has correctly drawn attention to the participation rights of works councils. From the DGB's perspective, the prevalence of works councils is insufficient (see above). However, this does not preclude ratification. It is sufficient that employees have the opportunity to elect a works council which possesses the aforementioned participation rights. For example, in the case of Armenia,[11] the ECSR confirmed compliance with Article 22; there, employees have the right to elect a decision-making body which can take decisions via staff meetings. These staff meetings may elect employee representatives, who must be involved accordingly. The employer may establish a health and safety committee ("safety and health commission"), though this is not mandatory. These participation rights were apparently sufficient for the ECSR to deem the country compliant.

In addition to works councils, employees are also represented by staff councils and church staff representative bodies. Unlike a works council, the formation of a staff council is mandatory once a certain threshold is reached (see Section 13§1 of the Federal Staff Representation Act (BPersVG)). The Federal Staff Representation Act and the state staff representation acts contain provisions that comply with the requirements of Article 22 of the ESC. For example, under Section 68§1 of the Federal Staff Representation Act (BPersVG), the staff council is required to support the authorities responsible for health and safety at work, the statutory accident insurance providers and any other relevant bodies in combating accident and health risks by offering suggestions, advice and information, and to promote the implementation of regulations on health and safety at work and accident prevention within the organisation.

In addition, employee participation takes place via health and safety representatives. In its report, the Federal Government rightly emphasises the importance of health and safety representatives. As an early-warning system, health and safety representatives play a key role in prevention, particularly in small businesses. It is therefore all the more regrettable that, in May 2026, the Federal Government decided on new thresholds for the appointment of these health and safety representatives.[12] He stated that this change aims to eliminate more than 120,000 health and safety representatives. The change primarily affects companies with between 20 and 50 employees. These are the very companies in which systematic health and safety measures are usually

[11] Conclusions 2018 - Armenia - Article 22.

[12] See the DGB's statement on this matter, available at: Ausschussdrucksache 21(11)97.

lacking. Against this background, plans to raise the threshold for the formation of the health and safety committee must be rejected.

For the competent authorities in the federal states to be better able to monitor compliance with this regulation, a significant increase in resources is required. This is the only way to ensure that, in the medium term, at least the minimum inspection rate laid down in Section 21 of the Occupational Safety and Health Act (ArbSchG) can be met.

2.7 Art. 24

Article 24 governs protection against termination for employees, with no exceptions based on a specific size of undertaking. The Federal Government consequently regards the small-business clause in Section 23§1, third sentence, of the German Employment Protection Act (KSchG) as an obstacle to ratification in this respect. It is correct that Article 24 of the ESC requires an amendment to the small-business clause. However, from the Federal Government's perspective, amending this provision does not appear appropriate. The DGB and its affiliated unions are calling for uniform protection against dismissal for all employees – regardless of the size of the undertaking. The small-business clause must therefore be repealed, as differentiation based on the size of the undertaking is unnecessary and, in particular, part-time workers are disadvantaged because they are counted only on a pro rata basis. This was reaffirmed in motion B06 of the 23rd Ordinary Federal Congress of the DGB.[13] The 1998 ruling of the Federal Constitutional Court is decisive for the assessment of the small business clause; this ruling confirmed the provision, in the version in force until 1996, only based on an interpretation consistent with the Constitution, contrary to its literal wording. An interpretation consistent with the Constitution requires that the provision be restricted to cases in which the disadvantage to employees and the preferential treatment of employers are objectively justified. The small-business clause on which the ruling was based at the time defined a small business as one with, as a rule, five or fewer employees. The Federal Constitutional Court deemed it constitutional solely because, in light of the general provisions of civil law under Sections 138 and 242 of the German Civil Code (BGB), employees should not be left defenceless against dismissal. However, this 'second-class' protection against dismissal is completely inadequate and is therefore firmly rejected by the DGB and its affiliated unions. In the meantime, the scope of small businesses exempt from protection against dismissal has been significantly expanded by raising the threshold from five to ten employees, excluding those employed for vocational training, with part-time employees counted only on a pro rata basis. Unfortunately, the Federal Constitutional Court has not yet had the opportunity to rule on the constitutionality of the extended small-business clause. In this respect, the current small-business clause is also controversial under national law and should be repealed. Nor does ILO Convention No. 158

[13] Resolutions of the DGB's Ordinary Federal Congress are available here: DGB_Beschlussunterlagen-23.OBK.pdf.

concerning Termination of Employment by the Employer, adopted in 1982, contain a small-business clause.

After all, under Article 30 of the EU Charter of Fundamental Rights – which is also binding on Germany – every worker has the fundamental right to protection against unjustified dismissal. The official explanatory notes state that this article is modelled on Art. 24 ESC. This close link between the Charter and EU law underlines the need to ratify Art. 24 ESC.

In this respect, the small business clause should be removed, and Art. 24 ratified.

2.8 Art. 30

The Federal Government justifies its non-acceptance of this article of the ESC by first arguing that the ECSR's "broad interpretation of the Charter's obligations (...)" may be incompatible with domestic legislation. Secondly, ratification is not necessary at all, as the right to a guaranteed minimum standard of living can be derived from the guarantee of human dignity (Article 1(1) of the Basic Law) in conjunction with Article 20(1) of the Basic Law. However, this reveals a remarkable circular argument. If the Federal Government is of the view that ratification is rendered unnecessary by the existing legal situation, there should be no reason not to ratify Article 30.

Furthermore, the view that the interpretation of Article 30 of the Charter is too broad is not shared. The ECSR's decisions on Article 30 relate in particular to the criminalisation of begging and the penalties imposed for behaviour generally exhibited by people living in poverty (Complaint No. 227/2023). Furthermore, it has been held that the right to housing enshrined in Article 30 requires a coordinated, holistic and adequately funded approach to ensure the effectiveness of the measures (Complaint No. 86/2014; Complaint No. 33/2006). The view that this interpretation is too broad is not shared. For example, the Committee has reaffirmed that Article 30 does not apply to migrants without regular residence status (Complaint No. 86/2014, partially dissenting opinion by Luis Jemena Quesada).

It is now for the Government to specify in which respects these interpretations appear to it to be too far-reaching.

Social security benefits

The Federal Government claims that social welfare benefits – in particular the citizen's income and social assistance – are appropriately designed instruments for guaranteeing the means of subsistence necessary for a decent standard of living. The DGB calls this into question.

Following the Federal Constitutional Court's ruling in 2014 – to the effect that the standard rates barely covered the minimum subsistence level and that the legislature had reached the limits of what is constitutionally permissible – there have since been several reassessments and annual adjustments based on methods that have been subject to considerable criticism. Furthermore, the increases in 2023 and 2024 only partially offset the cumulative losses in purchasing power caused by inflation. It is therefore by no means certain that the current standard rates cover the socio-cultural subsistence level. The DGB and its member trade unions call on the Federal Government, in the context of the forthcoming recalculation of the standard rates based on data from the Income and Consumption Survey (EVS) 2023, to present an improved and realistic calculation method this year that avoids circular reasoning[14] and refrains from arbitrarily excluding individual expenditure items on the grounds that they are 'not relevant to the standard rates'.

Secondly, the failure to claim social benefits to which a person is entitled is a significant problem which – particularly in the case of benefits designed to ensure a minimum standard of living – means that the poverty-preventing or poverty-reducing effect of social transfers is not realised. Although findings on the causes of this non-take-up already exist[15], the Federal Government is not taking any concrete measures to increase take-up.

Furthermore, the Federal Government cites housing benefit as a social policy instrument, without, however, pointing out that the take-up rate for housing benefit is estimated at around 50 per cent[16]. Despite this complex situation, the Federal Government is planning to restructure the housing benefit scheme, which will result in cuts that the DGB firmly opposes. High and rising rents are a significant and growing burden for a great many tenants. Low- and middle-income households, in particular, are coming under increasing pressure, as rising rents and energy costs are exacerbating their financial situation. Housing benefit is therefore a key component in providing financial support to tenants and homeowners on low household incomes.

Tax Instruments

The Federal Government lists several tax instruments aimed at reducing poverty and social inequality. These instruments exist and are sensible. Anyone wishing to combat poverty must also take wealth into account. The Federal Government overlooks this dimension in its report: Firstly, the 'obscenely' large and effectively disproportionately under-taxed inheritances passed down within a handful of very wealthy families stand in direct opposition to any reduction in the extreme inequality of wealth distribution. Secondly, in view of the many urgent social tasks and challenges – in the area of poverty reduction and far beyond – we cannot afford, quite literally, that very high incomes and very large inheritances and fortunes are largely exempt from being

[14] Under the method used to date, the reference group also includes households with an income below the basic income level (hidden poverty).
[15] 7. Armuts- und Reichtumsbericht der Bundesregierung
[16] see Personalmangel und lange Bearbeitungszeiten in den Wohngeldstellen - Institut der deutschen Wirtschaft (IW).

appropriately tapped to finance public services. The DGB calls for fair taxation of wealth, inheritances and top earners.

Inclusive Labour Market

The Federal Government lists several measures designed to improve the participation of people with disabilities in the labour market. In particular, the introduction of the fourth tier of the compensation levy had long been called for by the DGB and was expressly welcomed. In 2024, an additional tier was introduced for employers who, despite their statutory obligation to employ people with severe disabilities, do not employ a single person with a severe disability. Since then, these employers have had to pay a significantly higher compensation levy. Instead of the previous rate of 320 euros per month per unfilled mandatory post, the amount due is now 815 euros. The Federal Employment Agency reported a 1.5 per cent year-on-year increase in the number of people with severe disabilities in employment subject to social security contributions for the year 2024. By contrast, the overall increase in employment was just 0.4 per cent. This demonstrates that the measure is having an impact.

However, unemployment amongst people with severe disabilities has nevertheless risen significantly during the current economic crisis and, at 12 per cent in 2025, was well above the general unemployment rate of 7.6 per cent. People with disabilities continue to face significant disadvantages in the labour market. They are unemployed more frequently and for longer periods – despite having, on average, better qualifications than unemployed people without severe disabilities.

In the current economic climate, the DGB and its affiliated unions are observing that employees with severe disabilities or long-term illnesses are being forced out of companies – often through mutual termination agreements and by circumventing statutory protection against dismissal. In the DGB's view, there is an urgent need for legislative action to protect this particularly vulnerable group of people. Employers should be subject to a stronger obligation to inform and consult the representatives for severely disabled employees in good time, even before concluding termination agreements with severely disabled employees. The rule, in force since 2016, which renders terminations of severely disabled employees invalid if the representatives for severely disabled employees are not involved, should therefore also be extended to cover termination agreements.

Furthermore, there needs to be a right to reintegration for employees on long-term sick leave. Although the Workplace Reintegration Management (BEM) under Section 167 of the Social Code Book IX (SGB IX) obliges employers to offer reintegration measures, it is not implemented across the board. In the DGB's view, granting employees a legal right to this could enable this helpful tool to achieve its full potential, secure more jobs and, at the same time, help companies retain urgently needed skilled workers.

2.9 Art. 31

The Federal Government justifies its decision not to accept Art 31 ESC on the grounds that the provision is allegedly insufficiently specific about its scope of application, as well as its conditions and limitations. Furthermore, it argues that ratification could restrict the existing rights of homeowners and necessitate a comprehensive and resource-intensive coordination process. Finally, it refers to the potential implications for the federal budget.

Furthermore, the Federal Government makes it clear that paragraphs 1 and 2 of Article 31, in particular, should be interpreted in the light of the personal scope of the Social Charter.

The Federal Government goes on to refer to measures already taken which, in its view, contribute to the achievement of the objectives of Article 31. These include, amongst other things, the National Action Plan against Homelessness, the Alliance for Affordable Housing, housing benefit and federal funding for social housing construction.

The measures listed are either inadequate or have since been significantly scaled back. For instance, the Alliance for Affordable Housing – in which the DGB was also involved as a partner – was effectively disbanded when the previous government left office. Regardless, it is questionable what concrete contribution the Alliance actually made to tackling homelessness. This is particularly true in light of the latest figures from the Federal Working Group on Assistance for the Homeless (BAG W), according to which there are now more than one million homeless people in Germany.

Indeed, the federal government has significantly increased funding for social housing in recent years. However, the existing system of time-limited rent and occupancy restrictions means that, whilst new social housing units are constantly being created, a considerable number of homes are simultaneously being released from these restrictions. Consequently, the stock of social housing continues to decline despite rising funding. Nationwide, there are currently only around 1.03 million social housing units left – far too few given the actual demand.

The reference to the expansion of housing benefit also contradicts the federal government's current policy. The planned cuts to housing benefit amount to a total of 2.16 billion euros and effectively halve the combined expenditure of the federal and state governments. According to the federal government, around 400,000 households – roughly one third of all households receiving housing benefit at the end of 2024 – will lose their entitlement entirely. As housing benefit exclusively benefits low-income households, the cuts will hit particularly vulnerable groups. Pensioners make up more than half of housing benefit households, whilst around 40 per cent of housing benefit households include children, many of whom live with single parents. The significant improvements achieved through the ‘Wohngeld-Plus’ reform in 2023 will thus be largely reversed.

Against this background, the Federal Government’s reference to potential budgetary burdens arising from the ratification of the right to housing seems unconvincing. It also remains unclear why the Federal Government fears that recognition of Article 31 might undermine existing property rights. It neither explains what specific infringements it anticipates, nor why these should be incompatible with the constitutional protection of property rights.

Nor can the planned cuts be justified on the grounds of budgetary consolidation. Social welfare benefits are not merely an arbitrary budgetary item, but an expression of the principle of the welfare state. If very large fortunes, substantial inheritances and top incomes were tapped more heavily to finance public services, cuts to housing benefit and other social welfare benefits would be neither necessary nor objectively justifiable.

From the perspective of the DGB and its member trade unions, a fundamental reorientation of housing policy is therefore necessary. This includes, in particular:

- an effective cap on rent increases and the consistent enforcement of penalties for rent gouging;
- the abolition of index-linked tenancy agreements, the lowering of rent cap limits and effective regulation of furnished accommodation;
- the expansion of the public and non-profit housing sectors, as well as reliable and adequate funding for non-profit housing;
- strengthening local authorities’ capacity to act, in particular by extending local authorities’ rights of first refusal, establishing land funds and strengthening leasehold rights;
- the establishment of trainee housing schemes to provide affordable accommodation for trainees, promote employee participation and tackle the shortage of skilled workers;
- a sustainable and needs-based increase in funding for social housing.

Against this background, the DGB calls on the Federal Government to adopt Art 31 ESC and to recognise the right to adequate and affordable housing as a binding obligation under the welfare state.