EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX

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FIRST REPORT

ON THE NON-ACCEPTED PROVISIONS OF

THE EUROPEAN SOCIAL CHARTER

POLAND

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I. OVERVIEW AND EXECUTIVE SUMMARY

1. Overview of the adjusted procedure on the non-accepted provisions of the European Social Charter

The European Social Charter is based on a ratification system, which enables States Parties, subject to certain minimum requirements, to choose the provisions they are willing to accept as binding international legal obligations. This system is provided for by Article A of the revised European Social Charter (Article 20 of the 1961 Charter) and it allows States, at any time subsequent to ratification of the treaty, to notify the Secretary General of their acceptance of additional articles or paragraphs.

It is in the spirit of the Charter for States Parties to progressively increase their commitments, tending towards acceptance of additional and eventually all provisions of the Charter where possible, as opposed to an à la carte stagnancy.[1]

The procedure on examination of reports on non-accepted provisions is provided for by Article 22 of the European Social Charter of 1961 (ETS No. 35). According to this provision, the States Parties shall send to the Secretary General, at appropriate intervals as requested by the Committee of Ministers, reports relating to the provisions of Part II of the Charter which they did not accept at the time of their ratification or by subsequent notification. The Committee of Ministers shall determine from time to time in respect of which provisions such reports shall be requested and the form of the reports to be provided.

Noting that the exercise was not yielding the expected results in terms of the objective of strengthening the impact of the European Social Charter, the Committee of Ministers decided in December 2019 to invite "the ECSR to make full use of the opportunities for dialogue offered by Article 22 and to include in this exercise a dialogue with the member States that are not yet Party to the revised Charter, with a view to encouraging them to ratify it".[2]

In September 2022, the ECSR adopted a decision to henceforth implement the procedure on non-accepted provisions in respect of all State Parties to either Charter, in a reinforced manner. The current procedure provides for submission of written information by States Parties in accordance with a pre-established calendar, and additional bilateral meetings when it is deemed to represent an added value. The written information, submitted by the States Parties shall be made public upon its reception, and the national and international social partners, non-governmental organisations, national human rights institutions, equality bodies and other stakeholders are given the possibility to provide comments within three months after receipt of the written information.

In this context, the ECSR took the opportunity to underline that the objective of improving the implementation of social rights as a whole also entails a progressive strengthening of States Parties' commitments under the Charter. As implied by the Committee of Ministers in its decision of 15 March 2023[3], non-acceptance of provisions should be an exception, not the rule. Moreover, the binding scope of the accepted provisions relates to the modalities and extent of monitoring under the Charter, which does not detract from their nature as human

[1] The opening paragraph of Part I reads "The Parties accept as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised", followed by the heading of all rights contemplated by the European Social Charter. Part III, Article A, provides that "each of the Parties undertakes [...] to consider Part I of the Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part", followed by the rules on the choices available as regards provisions that Parties can declared to be bound by and which determine the modalities of monitoring under Part IV of the Charter. (See CM(2022)196-final).
[2] Committee of Ministers Decision of 11 December 2019.
[3] Committee of Minister Decision of 15 March 2023 (CM(2022)196-final)

rights. Consistent with the tenet that social rights are human rights and therefore universal, indivisible and interdependent, the ECSR emphasised that the ultimate goal is for States Parties to commit to all the provisions of the Charter and that not accepting certain provisions should on no account be seen as a permanent state of affairs.

2. The situation of Poland in the context of the non-accepted provisions of the European Social Charter

Poland ratified the 1961 European Social Charter (ETS No. 035) on 25 June 1997, accepting 58 out of 72 paragraphs. Poland ratified the Amending Protocol to the Charter (ETS No. 142) on 25 June 1997. It has neither signed nor ratified the Additional Protocol to the European Social Charter (ETS No. 158). Poland has neither signed nor ratified the Additional Protocol providing for a system of collective complaints (ETS No. 158). It has signed on 25 October 2005, but not yet ratified the revised European Social Charter (ETS No. 163).

Poland has currently not accepted the following 13 provisions of the 1961 Charter: Article 2§2, Article 4§1, Article 6§4, Article 7§§ 1, 3 and 5, Article 10§§ 3 and 4, Article 13§§ 1 and 4, Article 14§2, Article 18§§ 1, 2 and 3.

With reference to the revised Charter, which is a more recent treaty and offers an improved protection of social rights, Poland would benefit if it would not further delay its ratification and would consider the enhanced protection offered by updated and new articles as follows: Article 2§§3 and 4 (modernised in RESC), Articles 2§§6 and 7 (new in RESC), Article 3§§1 and 4 (new in RESC), Article 7§§2, 4 and 7 (modernised in RESC), Article 8 (modernised in RESC and 8§4a becomes 8§4, respective 8§4b becomes 8§5), Article 11§3 (modernised in RESC), Article 12§2 (modernised in RESC), Article 12§4a (modernised in RESC), Article 15§§1 and 2 (modernised in RESC), Article 15§3 (new in RESC), Article 17 (modernised in RESC), Article 19§§11 and 12 (new in RESC), Articles 24 to 31.

The ratification system of the revised European Social Charter (Part III of the revised Charter) also enables States Parties, under certain circumstances, to choose the provisions they are willing to accept as binding international legal obligations. Under this system, each Party undertakes:

- to consider Part I of the Charter as a declaration of the aims which it will pursue by all appropriate means, as stated in the introductory paragraph of that part;
- to consider itself bound by at least six of the following nine articles of Part II of this Charter: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20;
- to consider itself bound by an additional number of articles or numbered paragraphs of Part II of the Charter which it may select, provided that the total number of articles or numbered paragraphs by which it is bound is not less than sixteen articles or sixty-three numbered paragraphs.

Under the 1961 Charter Poland is currently bound by five of the nine articles that are labelled as hard core articles of Part II of the revised Charter (cf. Article A of the revised Charter): Articles 1, 5, 12, 16 and 19. In total, Poland under the 1961 Charter is bound by what corresponds to seven full articles and fifty-eight numbered paragraphs of Part II of the revised Charter.

Ratification by Poland of the revised Charter would thus require considering itself bound by at least one additional core Articles (Articles 6, 7, 13, 19 - the two more new provisions in RESC, and 20) and nine additional full articles of the revised Charter or five more numbered paragraphs in addition to those already accepted under the 1961 Charter.

The ratification of the revised Charter by the States that are still bound by the 1961 Charter is of particular importance for the Council of Europe to show unity in its mission to defend social rights and to reduce the (treaty law) complexity that arises from the existence of two social charters.

Current examination

This first examination of the non-accepted provisions is based on the adjusted procedure for non-accepted provisions. In terms of this procedure, Poland was invited on 7 November 2023 to submit written information before 31 March 2024. The requested written information was registered on 19 July 2024, and it was subsequently published on the CoE website. In addition, at its 341st session (in March 2024), the ECSR decided to request a meeting with the Polish authorities and the social partners on the situation in law and practice in respect of the non-accepted provisions. The meeting was held on 28-29 October 2024, in Warsaw, at the Ministry of Family, Labour and Social Policy (the programme of the meeting as well as the list of participants is set out in Appendix I).

The ECSR delegation consisted of Aoife Nolan, President of the ECSR and Grega Strban, member of the ECSR and Karin Lukas, former President of the ECSR. The Secretariat was represented by Constantin Cojocariu, Lawyer, Loreta Vioiu, Programme Manager and Catherine Gheribi, senior Assistant. Members of the delegation presented certain aspects of the case law with regard to the non-accepted provisions as well as information on the collective complaints procedure and the recent reform of the Charter system. The Polish authorities presented the situation in terms of national law and in practice relating to the non-accepted provisions. The ECSR delegation was hosted by Ms Monika Szostak, Director of the Department for International Cooperation, Ministry of Family, Labour and Social Policy. The meeting was moderated by Ms Joanna Maciejewska, Department for International Cooperation, Ministry of Family, Labour and Social Policy, and representative of the Polish Government in the Governmental Committee of the European Social Charter and the European Code of Social Security.

The ECSR's visit to Poland included a bilateral meeting with Mr. Sebastian Gajewski, Undersecretary of State at the Ministry of Family, Labour and Social Policy, and Mr. Jakub Wiśniewski, Undersecretary of State at the Ministry of Foreign Affairs. The delegation also met with the Parliamentary Social Policy and Family Committee of the Sejm. This meeting was additionally attended by Deputy Speaker of the Senate and PACE member Magdalena Biejat, as well as a representative of the Children's Ombudsman. Further meetings were held with social partners involved in the National Council of Social Dialogue and with leading civil society organisations.

The written information provided by the Government outlines the situation in law and practice with regard to the articles of the revised Charter, although that instrument has not yet been ratified.

The present examination covers the following non-accepted provisions of the 1961 Charter:

- Article 2§2 – The right to just conditions of work
- Article 4§1 – The right to a fair remuneration
- Article 6§4 – The right to bargain collectively
- Article 7§§3 and 5 – The right of children and young persons to protection
- Article 10§§ 3 and 4 – the right to vocational training
- Article 13§§1 to 4 – The right of employed women to protection
- Article 14§2 – The right to benefit from social welfare services
- Article 18§§1 to 3 – The right to engage in a gainful occupation in the territory of other Parties

Additionally, the examination covers the following non-accepted provisions of the revised Charter:

- Article 2§§6 and 7 – The right to just conditions of work
- Article 3§§4 – The right to safe and healthy working conditions
- Article 8§5 – The right of employed women to protection of maternity
- Article 10§4 – The right to vocational training
- Article 15§3 – The right of persons with disabilities to independence, social integration and participation in the life of the community
- Article 17§2 – The right of children and young persons to social, legal and economic protection
- Article 19§§11 and 12 – The right of migrant workers and their families to protection and assistance
- Article 20 – The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex
- Article 21 – The right to information and consultation
- Article 22 – The right to take part in the determination and improvement of the working conditions and working environment
- Article 23 – The right of elderly persons to social protection
- Article 24 – The right to protection in cases of termination of employment
- Article 25 – The right of workers to the protection of their claims in the event of the insolvency of their employer
- Article 26§§1 and 2 – The right to dignity at work
- Article 27§§1 to 3 – The right of workers with family responsibilities to equal opportunities and equal treatment
- Article 28 – The right of workers' representatives to protection in the undertaking and facilities to be accorded to them
- Article 29 – The right to information and consultation in collective redundancy procedures
- Article 30 – The right to protection against poverty and social exclusion
- Article 31§§1 to 3 – The right to housing

A table showing the provisions of the 1961 Charter accepted by Poland appears in Appendix II.

3. Summary of ECSR Views on the Situation in Poland with regard to Non-Accepted Provisions

After examining the written information submitted by Poland and the results of the subsequent meetings with the authorities and social partners in Warsaw on 28-29 October 2024, the ECSR

is of the view that a favourable evaluation can be given with respect to a possible immediate acceptance of the revised European Social Charter.

First and foremost the ECSR considers that the following additional provisions can be immediately accepted: Articles 2§6, 4§1, 10§3, 10§4, 14§2, 20, 21, 23, 25, 27§1, 27§2, 27§3, 28, 29; furthermore there are no major obstacles in terms of the alignment of the national situation in Poland with Articles 2§2, 2§7, 3§4, 7§1, 7§5, 8§5, 10§5, 15§3, 17§2, 18§2, 18§3, 19§11, 19§12, 22, 24 and 26§1.These provisions can there also all be accepted in 2025.

As regards Articles 6§4, 7§3, 13§1, 13§4, 18§1, 26§2, 30, 31§1, 31§2 and 31§3, the ECSR notes the significant progress of the legal and policy framework in terms of moving towards alignment with these Charter standards and wishes to encourage Poland to continue its efforts in removing the remaining obstacles to their acceptance so as to make acceptance of them possible in the very near future.

In view of the above, the ECSR considers that Poland can and should proceed to the ratification of the revised Charter. Its legal and policy framework is clearly aligned with a sufficient number of revised Charter provisions to make this possible.

Furthermore, with regard to Articles 20, 21, 22, 25, 26§2, 27§1, 27§2, 27§3 and 29, Poland is already bound by other international obligations that impose very similar obligations i.e.:

- Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) – for Article 20 and 26§2;

- Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community - Joint declaration of the European Parliament, the Council and the Commission on employee representation – for Articles 21, 22 and 29;

- Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer – for Article 25;
- Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU – for Articles 27§1, 27§2, 27§3;

- Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies – for Article 29.

This underlines Poland's ability to take on revised Charter commitments in these areas.

The ECSR wishes to remind the national authorities that acceptance of the revised European Social Charter's provisions is not contingent on the national situation of a State Party being in full legal conformity with those provisions at the time of acceptance. Rather, acceptance serves as a crucial signal of the aspiration of the State Party to realise the rights in question, given their crucial importance.

The ECSR also invites Poland to accept the Collective Complaints Procedure, in order to increase the effectiveness, speed and impact of the implementation of the Charter and strengthen the role of the social partners and non-governmental organisations, as well as make a declaration enabling national NGOs to submit collective complaints, as a step to meet the high interest of domestic NGOs to continuously strengthen the social standards at the national level.

The ECSR remains at the disposal of the Government for enhanced dialogue on the provisions of the Charter and the relevant case law. The ECSR invites Poland to ratify the revised Charter and to undertake further commitments under the Charter as soon as possible so as to consolidate the paramount role of the Charter in achieving social and economic progress and, ultimately, greater unity among the Council of Europe's Member States by guaranteeing and promoting common social human rights standards.

The next examination of the provisions not yet accepted by Poland will take place in 2029.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS OF THE 1961 EUROPEAN SOCIAL CHARTER

Article 2§2 – *The right to just conditions of work*

With a view to ensuring the effective exercise of the right to just conditions of work, the Contracting Parties undertake:

2. to provide for public holidays with pay.

Situation in Poland

The Government indicates that public holidays and Sunday work are regulated by the Law of 18 January 1951 on public holidays and the Law of 10 January 2018 on limiting trade on Sundays and public holidays and certain other days, along with provisions in the Labour Code. These regulations establish clear rules regarding public holidays, work restrictions, and compensation.

Public holidays are listed in legislation, and trade is generally prohibited on Sundays, public holidays, and certain additional days (e.g., 24 December after 2 p.m.), with exceptions for essential services. Work on Sundays and public holidays is permitted only for specific purposes, such as rescue operations, health care, public services, agriculture, or socially useful activities (e.g., catering, cultural services, tourism).

With regard to compensation of work on public holidays, workers who work on Sundays or public holidays are entitled to a full compensatory day off (24 hours), regardless of the hours worked. If a day off cannot be granted, employers must pay 100% additional compensation for hours worked on Sundays or public holidays. Monthly salaried workers retain full pay regardless of reduced working hours due to public holidays. However, hourly or piecework employees may experience a reduction in pay if holidays reduce working time.

Workers can voluntarily opt for a weekend working system, where work is performed only on Fridays, Saturdays, Sundays, and public holidays, with other days treated as rest days. These workers are exempt from the usual compensation rules for Sunday or public holiday work.

The protections for public holiday work under the Labour Code do not apply to workers employed under civil law contracts, leaving these workers without guaranteed rest periods or compensation.

The Government does not express its position on the possible acceptance of Article 2§2 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 2§2 guarantees the right to public holidays with pay, in addition to weekly rest periods and annual leave.[4] Public holidays may be specified in law or in collective agreements.[5]

The Charter does not stipulate the number of public holidays. The number of public holidays varies, depending on the States Parties. There has been no finding of non-conformity with this provision because of States Parties granting too few public holidays. However, the right of all workers to public holidays with pay must be guaranteed.[6]

As a rule, work should be prohibited during public holidays.[7] However, work can be carried out on public holidays under specific circumstances set by law or collective agreements.[8]

Work performed on a public holiday entails a constraint on the part of the worker, who should be compensated.[9] Considering the different approaches adopted in different countries in relation to the forms and levels of such compensation and the lack of convergence between States Parties in this regard, States Parties enjoy a margin of appreciation on this issue, subject to the requirement that all employees are entitled to an adequate compensation when they work on a public holiday.[10]
In assessing whether the compensation for work performed on public holidays is adequate, levels of compensation provided for in the form of increased salaries and/or compensatory time off under the law or the various collective agreements in force are taken into account, in addition to the regular wage paid on a public holiday, be it calculated on a daily, weekly or monthly basis.[11]

Work performed on a public holiday should be compensated with a higher remuneration than that usually paid: in addition to the paid public holiday, work carried out on that holiday must be paid at least double the usual wage.[12] The remuneration may also be provided as compensatory time-off, in which case it should be at least double the days worked.[13]

Opinion of the ECSR

With regard to Article 2§2, the ECSR notes that the right to public holidays with pay is guaranteed in Polish Labour Code and that public holidays are specified in law. As a rule, work is prohibited during public holidays and it can be carried out exceptionally, under specific circumstances set by law.

The ECSR finds, that work carried out on public holiday is adequately compensated - as a rule the employee is provided with compensatory time-off which is double the time worked. If it is not possible to use the day off, the employer is obliged to pay an additional fee to the regular salary, in the amount of 100% for each hour of work on a public holiday.

In the light of the information provided by the Government in the Report and during discussions led in Warsaw in October 2024, and taking into consideration the requirements of the provision, **the ECSR considers that there are no major obstacles to the acceptance of Article 2§2 by Poland**.

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[4] Conclusions 2018, Latvia
[5] Conclusions 2018, Latvia
[6] Conclusions XXI-3 (2019), United Kingdom
[7] Conclusions 2018, Latvia
[8] Conclusions 2014, The Netherlands
[9] Conclusions 2014, The Netherlands
[10] Conclusions 2014, Andorra
[11] Conclusions 2014, France
[12] Conclusions 2010, Statement of Interpretation on Article 2§2
[13] Conclusions 2010, Statement of Interpretation on Article 2§2

Article 4§1 – The right to a fair remuneration

With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:
1. to recognise the right of workers to a remuneration such as will give them and their families a decent standard of living.

Situation in Poland

The Government indicates that the right of employees to a fair wage is specified in the Labour Code without defining this category. Issues related to the minimum wage are regulated by the Act of 10 October 2002 on the minimum wage. The Act provides for a negotiating procedure within the Social Dialogue Council to determine the amount of the minimum wage. If the Council fails to agree on the amount of the minimum wage within the statutory deadline, the decision on the amount of the minimum wage shall be made by the Cabinet of Ministers. The Act guarantees an increase in the amount of the minimum wage to a degree no lower than the average annual price index of consumer goods and services in general forecasted for a given year (hereinafter: price index). If the actual price index differs from the forecast, the Act provides for the application of a corrective mechanism for the purposes of determining the amount of the minimum wage for the following year, ensuring that at least the real value of the minimum wage is maintained. The rate of increase of the minimum wage is increased additionally by 2/3 of the forecasted real rate of growth of the gross domestic product if in the first quarter of the year in which the negotiations take place the level of the minimum wage is lower than half of the average wage in the national economy.

The Government provides information that in addition to the minimum wage for employees working under an employment relationship, there is also a minimum hourly rate for persons employed under civil law contracts. The minimum hourly rate is indexed every year to a degree equal to the increase in the minimum wage. In 2017, this rate was 13 PLN, in 2022 - 19.70 PLN, in 2023 to 30 June - 22.80 PLN, from 1 July 2023 - 23.50 PLN, while from 1 January 2024 it is 27.70 PLN, and from 1 July 2024 it will be 28.19 PLN (all gross amounts). (1PLN ≈2,4 Euro)

Furthermore the Government indicates that in 2017 and 2019, 1.5 million people, i.e. 13% of those employed in the national economy, received remuneration not exceeding the minimum wage, in 2020 and 2021 - 1.6 million people, which constituted, respectively, 13.6% and 13.1% of those employed in the national economy, in 2022, 1.4 million people and 11.8% of those employed in the national economy, respectively.
The Government points out that the value of the minimum wage significantly exceeds the extreme poverty line (minimum subsistence level) for a one-person household and a household of two adults, which in 2022 amounted to 775.42 PLN and 1,338.25 PLN, respectively. In the case of a 3-person household (2 adults and a child aged 4-6), the extreme poverty line was estimated at 1,934.07 PLN, which is also lower than the minimum wage for one person.

Moreover, the Government highlights that all persons employed in Poland are subject to mandatory health insurance and therefore have the right to free use of health care services under the National Health Fund. In the case of families with children, additional support is provided by benefits under the "Family 500+" program (500 PLN ≈119,5 Euro per month for each child up to the age of 18, from January 1, 2024 - 800 PLN), the "Good Start" program (300 PLN per school-age child in connection with the start of the school year), Family Care Capital (PLN 500 per month for 2 years or 1,000 PLN per month for a year for the second and subsequent child from the age of 1 to 3), co-financing of a child's stay in a nursery (400 PLN per month), Large Family Card (discounts for families with at least 3 children). Additional

support for families with children is also provided by discounts on public transport for children and tax relief for children.

The Government does not express its position on the possible acceptance of Article 4§1 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 4§1 guarantees the right to a fair remuneration such as to ensure a decent standard of living. It applies to all workers, including to civil servants and contractual staff in the state,[14] regional and local public sectors, to branches or jobs not covered by collective agreement, to atypical jobs (assisted employment),[15] and to special regimes or statuses (e.g. migrant workers).[16]

The concept of a "decent standard of living" goes beyond merely material basic necessities such as food, clothing and housing, and includes resources necessary to participate in cultural, educational and social activities.[17]

"Remuneration" relates to the compensation – either monetary or in kind – paid by an employer to a worker for time worked or work done. It covers, where applicable, special bonuses and gratuities. On the other hand, social transfers (e.g. social security allowances or benefits) are taken into account only when they have a direct link to the wage.

To be considered fair within the meaning of Article 4§1, the minimum wage paid in the labour market must not fall below 60% of the net average national wage.[18] The assessment is based on net amounts, i.e. after deduction of taxes and social security contributions.[19] For this purposes, taxes are all taxes on earned income. Indirect taxes are thus not taken into account.[20] Where net figures are difficult to establish, it is for the State Party concerned to provide estimates of this amount.[21]

When a statutory national minimum wage exists, its net value for a full-time worker is used as a basis for comparison with the net average full-time wage (if possible calculated across all sectors for the whole economy, but otherwise for a representative sector such as a manufacturing industry or for several sectors).[22] Otherwise regard is had to the lowest wage determined by collective agreement or the lowest wage actually paid.[23] This may be the lowest wage in a representative sector, for example, the manufacturing industry.[24]

Where the net minimum wage is between 50% and 60% of the net average wage, it is for the State Party to establish that this wage permits a decent standard of living.[25] Where the minimum wage is low, the ECSR may, when assessing compliance with Article 4§1, take into consideration other elements, such as whether workers are exempt from the co-payment in respect of health care or have the right to increased family allowances.[26]

[14] Conclusions XX-3 (2014), Greece
[15] Conclusions 2014, France
[16] Conclusions 2014, Andorra
[17] Conclusions 2010, Statement of Interpretation on Article 4§1
[18] Conclusions XIV-2 (1998), Statement of Interpretation on Article 4§1
[19] Conclusions XIV-2 (1998), Statement of Interpretation on Article 4§1
[20] Conclusions XIV-2 (1998), Statement of Interpretation on Article 4§1
[21] Conclusions XVI-2 (2003), Denmark
[22] Conclusions XIV-2 (1998), Statement of Interpretation on Article 4§1
[23] Conclusions XVI-2 (2003), Denmark
[24] Conclusions XIV-2 (1998), Statement of Interpretation on Article 4§1
[25] Conclusions XXI-3 (2019), Denmark
[26] Conclusions XVI-2 (2004), Portugal

A wage does not meet the requirements of the Charter, irrespective of the percentage, if it does not ensure a decent living standard in real terms for a worker, i.e. it must be clearly above the poverty line for a given country.[27]

In extreme cases, for instance where the lowest wage is less than half the average wage the situation will be held to be in breach of Charter independently of such evidence.[28]

Opinion of the ECSR

Regarding the situation in Poland, the ECSR notes the progress achieved in recent years, particularly the increase in the minimum wage, which is gradually approaching the average national wage.

While the right of employees to a fair wage is enshrined in the Labour Code, the ECSR notes that the statutory national minimum wage remains below 60% of the net average national wage, currently standing at approximately 50–51%. In this context, the ECSR considers the broader cost of living, including expenses for healthcare, education, and transport. It notes positively that all employed persons in Poland are covered by mandatory health insurance and therefore have access to free healthcare services through the National Health Fund.

The ECSR also takes note of state programmes supporting families with children, as well as information provided under Article 17§2, highlighting that both primary and secondary education are free of charge.

Although the minimum wage still falls below the 60% benchmark, the availability of free public services and family benefits allows for a generally positive assessment. Nonetheless, the ECSR stresses that there remains room for improvement and encourages Poland to continue its efforts to raise the minimum wage to at least 60% of the net average wage.

In the light of the information provided and the requirements of the Charter's provision, the ECSR considers that **there are no major obstacles to the acceptance of Article 4§1 by Poland**.

Article 6§4 - The right to bargain collectively

With a view to ensuring the effective exercise of the right to bargain collectively, the Parties recognise:
4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.

Situation in Poland

The Government indicates that according to the Act of 23 May 1991 on the resolution of collective disputes, the right to organise employee strikes and other forms of protest, within the limits specified in the Act, is granted to trade unions. In defense of the rights and interests of employees, forms of protest action other than strikes may be used, which do not threaten human life or health, without interrupting work, provided that the applicable legal order is observed. This right may also be exercised by employees who do not have the right to strike. Additionally, in defense of the rights and interests of employees who do not have the right to

[27] Conclusions XIV-2 (1998), Statement of Interpretation on Article 4§1
[28] Conclusions XIV-2 (1998), Statement of Interpretation on Article 4§1

strike, a trade union operating in another workplace may organize a solidarity strike, for a period not longer than half a working day.

Employees of essential services (transport, water supply, gas, electricity, others) and civilian employees of the army have the right to strike, provided that the cessation of work at work stations, devices and installations does not threaten human life and health or state security. Due to the public good, it is inadmissible to stop work as a result of strike action at work stations, devices and installations if the cessation of work threatens human life and health or state security - the ban does not apply to the entire establishment, but only to individual positions.

The right to strike does not apply to members of the civil service corps (employees, officials), employees employed in state authorities, government administration, local government administration, courts and prosecutor's offices, regardless of the position and type of tasks performed. The decisive factor is the fact of employment in a given institution, and not the influence of the person employed in a given position on ensuring public order, national security, protection of public health or good customs.

The Government indicates that, due to their specific tasks and status, the right to strike does not apply to officers and civilian employees of the Internal Security Agency, the Intelligence Agency, the Military Counterintelligence Service, the Military Intelligence Service, the Central Anticorruption Bureau, the State Protection Service, the Customs and Fiscal Service, the Police and the Armed Forces of the Republic of Poland, the Prison Service, the Border Guard, the Marshal's Guard, and organisational units of fire protection.

The right of employers to take action in the event of a conflict of interests (lockout) is not regulated.

The Government does not express its position on the possible acceptance of Article 6§4 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 6§4 of the Charter guarantees the right to strike and the right to request a lockout.[29] The recognition of this right may result from the law or from case law. In the latter case, the decisions of the national courts may not restrict the right to strike too much, and in particular intervention by the national courts, cannot reduce the right to strike to the point of affecting its very substance and depriving it of its effectiveness. The opportunity and the modalities of the strike constitute a free choice of workers and unions.

As regards the permitted objectives of collective action, Article 6§4 applies to conflicts of interest[30], for example, disputes concerning the conclusion of a collective agreement.[31] It does not confer rights in the event of legal conflicts (i.e. generally disputes concerning the existence, validity or interpretation of an agreement or the breach of an agreement) or conflicts of a political nature. Political strikes are not covered by Article 6.[32]

The right to strike may be limited. A limitation on this right is possible, however, only if it falls within the limits set out in Article G, which provides for restrictions on the rights guaranteed by the Charter if they are prescribed by law, pursue a legitimate aim and are necessary in a

[29] Conclusions I (1969), Statement of Interpretation on Article 6§4
[30] Conclusions I (1969), Statement of Interpretation on Article 6§4
[31] Conclusions I (1969), Statement of Interpretation on Article 6§4
[32] Conclusions II (1971), Statement of Interpretation on Article 6§4

democratic society to ensure respect for the rights and freedoms of others or to protect public order, national security, public health and morality.[33]

In addition, the prohibition of certain types of collective action, or even the establishment by law of a general limitation on the right to take collective action with a view to blocking the way to initiatives with illegitimate or abusive aims (which, for example, have nothing to do with the exercise of workers' rights or relate to discriminatory objectives), are not necessarily contrary to Article 6§4 of the Charter.[34] In this context, excessive or abusive forms of collective action, such as prolonged blockades, which could impede the maintenance of public order or unduly restrict the rights and freedoms of others (in particular the right to work of other employees of the enterprise or the right of employers to engage in gainful activity) may be limited or prohibited by the legislator.[35]

With regard to restrictions on sectors essential to the community, a ban on strike is presumed to pursue a legitimate aim to the extent that a work stoppage could endanger public order, national security and/or public health. However, an outright ban on strikes in a sector considered essential – especially when it is defined in broad terms, for example: energy or health – is not considered to be a measure proportionate to the requirements of the sectors concerned.[36] At most, the introduction of a minimum service in these sectors may be deemed to be in accordance with Article 6§4.[37]

The right to strike of certain categories of civil servants, such as members of the armed forces, may be restricted.[38] As far as members of the police are concerned, an absolute ban on the right to strike could only be considered to be in conformity with Article 6§4 if there are compelling reasons to justify it.[39] On the contrary, the imposition of restrictions on the manner and form of the strike may be consistent with the Charter.[40]

With regard to the requirements of the strike procedure, according to the ECSR, the exercise of the right to strike may be subject to the prior approval of a certain percentage of the workers, provided that the voting method, quorum and/or majority required are not such as to unduly limit the right to take industrial action.

With regard to the effects of the strike, there can be no adverse consequences for workers, including dismissal in retaliation or economic sanctions.[41] Indeed, under the terms of Article 6§4, the strike cannot be considered as a violation of the strikers' contractual obligations resulting in the termination of the employment contract. It must be accompanied by a ban on dismissal. In addition, deductions from strikers' wages may not exceed the lost wages, i.e. the wages that would normally have been received for the strike period.[42]

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[33] Conclusions 2014, Norway; see also Conclusions X-1 (1987), Norway (regarding Article 31 of the 1961 Charter to which Article G of the revised Charter corresponds).
[34] Swedish Trade Union Confederation (LO) and Swedish Confederation of Professional Employees (TCO) v. Sweden, Complaint No. 85/2012, decision on admissibility and the merits of 3 July 2013, §119
[35] Swedish Trade Union Confederation (LO) and Swedish Confederation of Professional Employees (TCO) v. Sweden, Complaint No. 85/2012, decision on admissibility and the merits of 3 July 2013, §120
[36] Conclusions XVII-1 (2006), Czech Republic
[37] Matica Hrvatskih Sindikata v. Croatia, Complaint No. 116/2015, decision on the merits of 21 March 2018, §114; see also Conclusions XVII-1 (2006), Czech Republic
[38] European Organisation of Military Associations (EUROMIL) v. Ireland, Complaint No. 112/2014, decision on the merits of 12 September 2017, §113
[39] European Confederation of Police (EuroCOP) v. Ireland, Complaint No. 83/2012, decision on the admissibility and merits of 2 December 2013, §211
[40] European Confederation of Police (EuroCOP) v. Ireland, Complaint No. 83/2012, decision on the admissibility and merits of 2 December 2013, §211
[41] Conclusions I (1969), Statement of Interpretation on Article 6§4
[42] Conclusions XIII-1 (1993), France

Finally, in the ECSR's view, a general prohibition of lock-outs is contrary to Article 6§4, although the latter is not protected to the same degree as the right to strike.

Opinion of the ECSR

The ECSR takes note of the existing measures aimed at ensuring the right to strike in both law and practice. However, based on the information provided, it considers that the current situation in Poland requires adjustments to align with the requirements of Article 6§4 of the Charter.

Most notably, the right to strike is excessively restricted for certain categories of employees, in a manner that cannot be deemed proportionate or justified. Under Polish law, members of the civil service corps (employees and officials), as well as individuals employed in state authorities, government administration, local government administration, courts, and prosecutor's offices, are excluded from the right to strike—regardless of their position or the nature of their duties. The ECSR recalls that while restrictions may be imposed on the right to strike for some categories of civil servants, an absolute ban can only be deemed compatible with Article 6§4 if supported by compelling reasons.

As such, legislative changes are necessary to ensure that the right to strike is granted to at least some members of the civil service corps and public sector employees, depending on their roles and responsibilities.

In addition, the ECSR notes the absence of a legal basis for lock-outs and stresses the need for such a framework to be established.

Therefore the ECSR considers that **obstacles remain with regard to the acceptance by Poland of Article 6§4 of the Charter**.

Article 7§1 - The right of children and young persons to protection

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to provide that the minimum age of admission to employment shall be 15 years, subject to exceptions for children employed in prescribed light work without harm to their health, morals or education.

Situation in Poland

The Government indicates that the Constitution provides that permanent employment of children under the age of 16 is prohibited, and the forms and nature of permissible employment are specified by law. According to the Labour Code, it is prohibited to employ a person who has not reached the age of 15. The following exceptions to this rule are provided for:

- a person who has completed eight years of primary school, but is not 15 years old, may be employed, under the principles specified for minors, in the calendar year in which he or she turns 15,
- a person who has completed eight years of primary school, but is not 15 years old, may be employed, under the principles specified for minors, for the purpose of vocational training in the form of vocational training,
- a person who has not completed eight years of primary school, but is not 15 years old, may be employed, under the principles specified for minors, for the purpose of vocational training in the form of training to perform a specific job.

The employment of minors (persons who have reached the age of 15 but have not exceeded the age of 18) under an employment contract for purposes other than vocational training may

only include the performance of light work. The list of light work is determined by the employer, after obtaining the consent of the physician performing the tasks of the occupational health service. The list of light work is approved by the labour inspector. Employers are also responsible for determining the conditions for performing light work, in particular the maximum time for performing it.

The Labour Code allows a child, until they reach the age of 16, to perform work or other gainful activities for the benefit of an entity conducting cultural, artistic, sports or advertising activities. The child may undertake such activities only with the consent of the child's legal representative or guardian, and with the permission of the labor inspector. This means that undertaking work or other gainful activity (concluding an employment contract or a civil law contract) must always be preceded by the labor inspector issuing a permit to the entity that intends to employ the child. The entity conducting cultural, artistic, sports or advertising activities applies for the permit. The application must be accompanied by:

- written consent of the child's legal representative or guardian for the child to perform work or other gainful activities,
- an opinion from a psychological and pedagogical counselling centre indicating that there are no contraindications to the child performing work or other gainful activities,
- a medical opinion stating that there are no contraindications to the child performing work or other gainful activities,
- if the child is subject to compulsory schooling – an opinion from the principal of the school the child attends, regarding the possibility of the child fulfilling this obligation while performing work or other gainful activities.

If the labour inspector, based on the above enlisted documents, is convinced that the performance of work or other gainful activities by the child may pose a threat to their life, health and psychophysical development or threatens the fulfillment of compulsory schooling, the inspector shall refuse to issue a permit. The decision may be appealed to the district labour inspector.
Based on the provisions of the Civil Code, it is possible for minors aged 13-15 to perform work, with the consent of their legal representative. Such minors are not in an employment relationship and, under the provisions of labour law, are not employees. The provisions of the Labour Code do not apply to their work, including the permissible working hours of children employed under such contracts. Work performed under a civil law contract is not subject to inspections by the State Labour Inspectorate.

The regulations contained in the Labour Code do not apply to the work of children on family farms, consisting in providing assistance to the family. Such work is also not subject to inspections by the State Labour Inspectorate. In accordance with the Act of 13 April 2007 on the State Labour Inspectorate, the labour inspectorate has no right to conduct inspections of natural persons who do not conduct business activities, if such a person does not have the status of an employer, i.e. does not employ at least one employee under an employment relationship (employment contract). In accordance with court case law and legal doctrine, running an individual farm does not constitute an economic activity within the meaning of the Act of 6 March 2018 – Entrepreneurs' Law, and therefore a person running such a farm is not an entrepreneur, but has the status of a natural person.

The Government does not express its position on the possible acceptance of Article 7§1 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

In application of Article 7§1, domestic law must set the minimum age of admission to employment at 15 years.

The prohibition on the employment of children under the age of 15 applies to all economic sectors, including agriculture, and all places of work, including work within family enterprises and in private households[43] and irrespective of the status of the worker (worker, self-employed, unpaid family helper or other)[44].

The effective protection of the rights guaranteed by Article 7§1 cannot be ensured solely by legislation; the legislation must be effectively applied in practice and rigorously supervised.[45] The Labour Inspectorate has a decisive role to play in this respect.[46]

Article 7§1 allows for an exception concerning light work, i.e. work which does not entail any risk to the health, moral welfare, development or education of children.[47] States Parties are required to define the types of work which may be considered light, or at least to draw up a list of those which are not.[48] The definition of light work authorised by legislation must be sufficiently precise.[49] Work considered to be light ceases to be so if it is performed for an excessive duration.[50] States are therefore required to set out the conditions for the performance of "light work" and the maximum permitted duration of such work.[51]

The ECSR considers that children under the age of 15 and those who are subject to compulsory schooling should not perform light work during school holidays for more than 6 hours per day and 30 hours per week in order to avoid any risks that the performance of such work might have for their health, moral welfare, development or education.[52]

Children who are still subject to compulsory schooling can carry out light work for two hours on a school day and 12 hours a week in term time outside the hours fixed for school attendance.[53] However a situation in which a child under the age of 15 works for between 20 and 25 hours per week during school term, or three hours per school day and six to eight hours on week days when there is no school is contrary to the Charter.[54]

Children should be guaranteed at least two consecutive weeks of rest during the summer holidays.[55] Regarding work done at home, States Parties are required to monitor the conditions under which it is per formed in practice.[56]

Opinion of the ECSR

[43] Conclusions I (1969), Statement of Interpretation on Article 7§1
[44] International Commission of Jurists against Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §§ 27-28
[45] International Commission of Jurists against Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §32
[46] International Commission of Jurists against Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §32
[47] International Commission of Jurists against Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §29
[48] International Commission of Jurists against Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §29
[49] Conclusions 2019, Albania
[50] International Commission of Jurists against Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §§29-31
[51] Conclusions 2015, Statement of interpretation on Articles 7§1 and 7§3
[52] Conclusions 2015, Statement of interpretation on Articles 7§1 and 7§3
[53] Conclusions 2011, Portugal; Conclusions 2019, Armenia
[54] Conclusions 2019, Armenia
[55] Conclusions 2015, Statement of interpretation on Articles 7§1 and 7§3
[56] Conclusions 2006, General Introduction on Article 7§1

The ECSR takes note of the measures already in place to ensure the minimum age of admission to employment being not lower that 15 years. **However, in the light of the information provided, the ECSR considers that the situation in Poland requires adjustments to bring it in line with the requirements of Article 7§1.**

The ECSR notes that the minimum age of admission to employment is set at 15 years. Under the Constitution, permanent employment of children under the age of 16 is prohibited and the forms and nature of permissible employment are specified by law. The prohibition on the employment of children under the age of 15 applies to all economic sectors.

The employment of minors under an employment contract for purposes other than vocational training may only include the performance of light work. The list of light work is determined by the employer but is approved by the labour inspector. If the labour inspector, based on the documents, is convinced that the performance of work or other gainful activities by the child may pose a threat to their life, health and psychophysical development or threatens the fulfillment of compulsory schooling, the inspector shall refuse to issue a permit.

However, the ECSR notes that problems remain particularly with regard to provisions of the Civil Code which allow minors aged 13-15 to perform work. In the ECSR's opinion those provisions shall be excluded or amended in such a way to allow minors to perform light work only. Furthermore the conditions of performing light work, including the working hours, shall be regulated. In case of minors, work performed under a civil law contract shall be subject to inspections by the State Labour Inspectorate. What is more, the ECSR stresses the need to apply the regulations contained in the Labour Code to the work of children on family farms, including providing assistance to the family. Such work of minors shall also be subject to inspections by the State Labour Inspectorate.

Therefore the ECSR considers that **obstacles remain with regard to the acceptance by Poland of Article 7§1 of the Charter**.

Article 7§3 - The right of children and young persons to protection

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to provide that persons who are still subject to compulsory education shall not be employed in such work as would deprive them of the full benefit of their education.

Situation in Poland

The Government indicates that the Constitution of the Republic of Poland and the Act of 14 December 2016 - Education Law, education is compulsory until the age of 18. A child's school obligation begins at the beginning of the school year in the calendar year in which the child turns 7 and lasts until the completion of primary school, no longer than until the completion of 18 years of age.

The Labour Code states that a juvenile employee is obliged to continue their education until the age of 18, in particular they are obliged to:

- continue their education in the field of primary and secondary school, if they have not completed such school,
- continue their education in the field of secondary school or in extracurricular forms.

The Labour Code imposes on the employer the obligation to enable the juvenile to fulfill the obligation of further education, including taking time off from work for the time needed to participate in training classes.

The weekly working time of a young person up to 16 years of age, during school term, may not exceed 12 hours, and the daily working time may not exceed 6 hours. On the day of participation in school classes, the working time of a young person may not exceed 2 hours.

The working time of a young person during school holidays may not exceed 7 hours per day and 35 hours per week.

The working time of a young person aged 16-18 may not exceed 8 hours per day. The working time includes the time spent studying in the amount resulting from the compulsory school curriculum.

Every young person under the age of 18 is entitled to a minimum of 48 consecutive hours of rest each week, which must include Sunday.

The Government does not express its position on the possible acceptance of Article 7§3 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 7§3 requires States Parties to ensure that children still subject to compulsory education employed are not deprived of the full benefit of their education.[57] Only light work is permissible for schoolchildren under this provision.[58] The notion of "light work" is identical to that under article 7§1.[59]

The ECSR considers that children who are subject to compulsory Schooling should not perform light work during school holidays for more than 6 hours per day and 30 hours per week in order to avoid any risks that the performance of such work might have for their health, moral welfare, development or education.[60]

Adequate safeguards must be in place to allow the authorities (labour inspectorate, social and education services) to protect children from work which could deprive them of the full benefit of their education.[61] During school term, the time during which children may work must be limited so as not to interfere with their attendance, receptiveness and homework.[62]

In order not to deprive children of the full benefit of their education, States Parties must provide for a mandatory and uninterrupted period of rest during school holidays.[63] Its duration shall not be less than 2 consecutive weeks during the summer holidays.[64]

Opinion of the ECSR

The ECSR takes note of the measures already in place to ensure that children subject to compulsory education and employed to work are not deprived of the full benefit of their education. However, in the light of the information provided, the ECSR considers that the situation in Poland requires adjustments to bring it in line with the requirements of Article 7§3.

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[57] Conclusions I (1969), Statement of Interpretation on Article 7§3
[58] Conclusions 2015, Statement of interpretation on Articles 7§1 and 7§3
[59] Conclusions I (1969), Statement of Interpretation on Article 7§1; Conclusions 2015, Statement of interpretation on Articles 7§1 and 7§3
[60] Conclusions 2015, Statement of interpretation on Articles 7§1 and 7§3
[61] Conclusions V (1977), Statement of Interpretation on Article 7§3; Conclusions 2006, Portugal
[62] Conclusions 2006, Albania; Conclusions 2019, Serbia
[63] Conclusions XVII-2 (2005), The Netherlands
[64] Conclusions 2011, Statement of Interpretation on Article 7§3

Most notably, children who are subject to compulsory schooling shall not be allowed to perform light work during school holidays for more than 6 hours per day and 30 hours per week. Therefore, the current Polish regulation Polish regulation , which allows up to 7 hours per day and 35 hours per week, should be amended to comply with this standard. The ECSR highlights the need to reduce the permitted working time of children who are subject to compulsory schooling to a maximum of 6 hours per day and 30 hours per week during school holidays. In addition, there is currently no prohibition on young persons working before the start of the school day, which raises further concerns.

Therefore the ECSR considers that **obstacles remain with regard to the acceptance by Poland of Article 7§3 of the Charter**.

Article 7§5 - The right of children and young persons to protection

With a view to ensuring the effective exercise of the right of children and young persons to protection, the Parties undertake to recognise the right of young workers and apprentices to a fair wage or other appropriate allowances.

Situation in Poland

The Government indicates that in accordance with the Regulation of the Council of Ministers of 28 May 1996 on the vocational training of adolescents and their remuneration, adolescents during the period of vocational training are entitled to remuneration calculated as a percentage of the average monthly salary in the national economy. From 1 September 2023, the remuneration of adolescents in the subsequent years of education is not less than 8%, 9% and 10% of the average wage, respectively, and in the case of training to perform a specific job – not less than 7% of the average wage.

Pursuant to the Act of 14 December 2016, the Law on School Education, a pupil on a probation period receives a monthly cash allowance, unless the parties to the probation period agreement agree that the probation period is carried out free of charge. The amount of the monthly cash benefit may not exceed the amount of the minimum remuneration for work, determined on the basis of the Act of 10 October 2002 on the minimum remuneration for work.

The Government does not express its position on the possible acceptance of Article 7§5 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

In application of Article 7§5, domestic law must provide for the right of young workers to a fair wage and of apprentices appropriate allowances.[65] This right may result from statutory law, collective agreements or other means.[66] The “fair” or “appropriate” character of the wage is assessed by comparing young workers’ remuneration with the starting wage or minimum wage paid to adults (aged eighteen or above).[67]
In accordance with the methodology adopted under Article 4§1, wages taken into consideration are those after deduction of taxes and social security contributions.[68]

[65] Conclusions 2019, Azerbaijan
[66] Conclusions 2019, Azerbaijan
[67] Conclusions XI-1 (1991), United-Kingdom
[68] Conclusions XI-1 (1991), United-Kingdom; Conclusions 2019, Albania

The young worker's wage may be less than the adult starting wage, but any difference must be reasonable.[69] It must not be too substantial and ought to be for a limited time.[70] For fifteen/sixteen year-olds, a wage of 30% lower than the adult starting wage is acceptable and for sixteen/eighteen year-olds, the difference may not exceed 20%.[71] The adult reference wage must in all cases be sufficient to comply with Article 4§1 of the Charter.[72] If the reference wage is too low, even a young worker's wage which respects these percentage differentials is not considered fair.[73]

Apprentices may be paid lower wages, since the value of the on-the-job training they receive must be taken into account.[74] However, the apprenticeship system must not be deflected from its purpose and be used to underpay young workers.[75] Accordingly, the terms of apprenticeships should not last too long and, as skills are acquired, the apprentice's allowance should be gradually increased throughout the contract period, starting from at least one-third of the adult starting wage or minimum wage at the commencement of the apprenticeship, and arriving at least at two-thirds at the end.[76] After two or three years' vocational training, an apprentice is sufficiently trained and should be considered as an adult worker for wage purposes.[77]

Opinion of the ECSR

The ECSR takes note of the measures already in place to ensure the right of young workers and apprentices to a fair wage or other appropriate allowances. However, in the light of the information provided, the ECSR considers that the situation in Poland requires adjustments to bring it in line with the requirements of Article 7§5.

First and foremost, legislative intervention is needed to ensure that the wages of 15–16-year-olds are not more than 30% lower than the adult starting wage, and that the wage difference for 16–18-year-olds does not exceed 20%.

Furthermore, in the case of apprentices, wages should be guaranteed to start at no less than one-third of the adult starting wage or minimum wage at the beginning of the apprenticeship, and gradually increase to at least two-thirds by its conclusion. Upon completing two or three years of vocational training, an apprentice should be regarded as an adult worker for wage purposes.

Therefore the ECSR considers that **obstacles remain with regard to the acceptance by Poland of Article 7§5 of the Charter**.

Article 10§3 - The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake to provide or promote, as necessary: - adequate and readily available training facilities for adult workers; - special facilities for the re–training of adult workers needed as a result of technological development or new trends in employment.

Situation in Poland

[69] Conclusions 2019, Azerbaijan
[70] Conclusions II (1971), Statement of Interpretation on Article 7§5
[71] Conclusions 2006, Albania
[72] Conclusions IX-1 (1987), United Kingdom
[73] Conclusions IX-1 (1987), United Kingdom
[74] Conclusions II (1971), Statement of Interpretation on Article 7§5
[75] Conclusions 2019, Albania
[76] Conclusions 2006, Portugal; Conclusions XVII-2 (2005), Germany; Conclusions 2019, Austria
[77] Conclusions II (1971), Statement of Interpretation on Article 7§5

The Act of 20 April 2004 on the promotion of employment and labour market institutions lists groups of people who may be covered by training organised by public employment services: unemployed people and job seekers. The said Act obliges the minister responsible for labour affairs to specify instruments stimulating the development of continuing education and human resources development, among others by introducing a system of registering training institutions. The Act provides instruments to stimulate the development of education and training of employees. The resources of the National Training Fund are allocated to financing the continuing education of employees and employers, including foreigners employed by the employer, courses undertaken on the initiative or with the consent of the employer, postgraduate studies, and examinations.

Employees and people performing other gainful employment or business activity, aged 45 and over, interested in professional development, after registering with the employment office, can take advantage of group or individual training courses organized by the employment office.

The Act provides for instruments stimulating the development of employee education and training. The resources of the National Training Fund are allocated to finance the continuing education of employees and employers, including foreigners employed by the employer, courses undertaken at the initiative or with the consent of the employer, postgraduate studies, and exams. They can also be used to specify the training needs of the employer, to allocate for medical and psychological examinations necessary before starting education, and to finance accident insurance in connection with participation in education. The employer applies for the fund's resources to the district labour office.

Foreigners (citizens of other countries, stateless persons) may benefit from vocational training organised by employment offices if they are registered as unemployed or seeking work, as well as if they are staying in Poland on the basis of a temporary residence permit, a temporary residence and work permit, a temporary residence permit for the purpose of conducting scientific research, a work visa or if they have an EU Blue Card.

The Government does not express its position on the possible acceptance of Article 10§3 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

The right to continuing vocational training must be guaranteed to employed and unemployed persons, including young unemployed people.[78] Self-employed persons are also covered by this provision.[79] The main indicators of compliance with this provision are the types of continuing vocational training and education available on the labour market, training measures for certain groups (such as women), the overall participation rate of persons in training and the gender balance, the percentage of employees participating in continuing vocational training, and the total expenditure.[80]

As regards unemployed people, vocational training must be available to them.[81] The activation rate – i.e. the ratio between the annual average number of previously unemployed participants in active measures divided by the number of registered unemployed persons and participants

[78] Conclusions 2012, Serbia
[79] Conclusions 2012, Serbia
[80] Conclusions 2012, Serbia
[81] Conclusions XIX-1 (2008), Hungary

in active measures - is used to assess the impact of the States Parties' policies.[82] In addition, the following aspects are taken into account:

- the existence of legislation on individual leave for training and its characteristics, in particular the length, the remuneration, and the initiative to take it;[83]

- the sharing of the burden of the cost of vocational training among public bodies (state or other collective bodies), unemployment insurance systems, enterprises, and households as regards continuing training.[84]

Opinion of the ECSR

The ECSR takes note of the measures already in place and it considers that in the light of the information provided and the requirements of the Charter, considers that **there are no obstacles to the acceptance of Article 10§3 by Poland.**

Article 10§4 - The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake to provide or promote, as necessary, special measures for the retraining and reintegration of the long-term unemployed.

Situation in Poland

The Government indicates the special measures for the retraining and reintegration of the long-term unemployed, who, as defined by the Act of 20 April 2004, are individuals registered with the labour office for over 12 months within the last two years. The Government indicates that they are entitled to labour office assistance, including career counseling, training, vocational preparation programs, and internships. Recognised as a group in a "special situation on the labour market," they receive priority access to special employment-support programs and activation activities under agreements between labour offices, voivodeship marshals, and employment agencies. Additionally, long-term unemployed individuals receiving social assistance benefits may participate in activation and integration programs aimed at professional and social reintegration.

The Government indicates that persons using support from employment offices in the scope of training are entitled to: payment of training costs, payment of scholarships to training participants, a loan to finance training costs, up to the equivalent of 400% of the average salary, financing of exam costs and costs of obtaining a license, up to the equivalent of 300% of the average salary, financing of postgraduate studies costs, up to the equivalent of 300% of the average salary.

The Government does not state if it is possible to accept Article 10§4 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

[82] Conclusions 2012, Serbia
[83] Conclusions 2012, Serbia
[84] Conclusions 2012, Serbia

In accordance with Article 10§4, States Parties must fight long-term unemployment through retraining and reintegration measures.[85] A person who has been without work for 12 months or more is long-term unemployed.[86]

The main indicators of compliance with this provision are the types of training and retraining measures available on the labour market, the number of persons in this type of training, the special attention given to young long-term unemployed, and the impact of the measures on reducing long-term unemployment.[87]

Equal treatment with respect to access to training and retraining for long-term unemployed persons must be guaranteed to non-nationals.[88] Access to financial assistance for studies shall be provided to nationals of other States Parties lawfully resident in any capacity, or having authority to reside by reason of their ties with persons lawfully residing in the territory of the Party concerned.[89] Students and trainees, who, without having the above-mentioned ties, entered the territory with the sole purpose of attending training are not covered by this provision of the Charter.[90] Therefore, Article 10§4 does not require the States Parties to grant financial aid to any foreign national who is not already resident in the State Party concerned, on an equal footing with its nationals.[91] However, it requires that nationals of other States Parties who already have a resident status in the State Party concerned, receive equal treatment with nationals in the matters of both access to vocational education (Article 10§1) and financial aid for education (Article 10§4).[92] Those States Parties who impose a permanent residence requirement or any length of residence requirement on nationals of other States Parties in order for those persons to be able apply for financial aid for vocational education and training are in breach of the Charter.[93]

Opinion of the ECSR

The ECSR takes note of the measures already in place and it considers that in the light of the information provided and the requirements of the Charter's provision, **there are no obstacles to the acceptance of Article 10§4 by Poland.**

Article 13§1 - The right to social and medical assistance

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition.

Situation in Poland

Social assistance in Poland aims to support individuals and families in overcoming difficult situations that they cannot resolve independently, ensuring they can meet essential needs and live with dignity. Assistance is provided at the request of the individual, their legal representative, or ex officio and is granted via administrative decisions, except for specific non-cash benefits like crisis intervention, social work, or temporary shelter.

[85] Conclusions 2003, Italy
[86] Conclusions 2003, Italy
[87] Conclusions 2020, Cyprus
[88] Conclusions 2020, Ukraine
[89] Conclusions XXII-1 (2020), Luxembourg
[90] Conclusions XXII-1 (2020), Luxembourg
[91] Conclusions XXII-1 (2020), Luxembourg
[92] Conclusions XXII-1 (2020), Luxembourg
[93] Conclusions XXII-1 (2020), Luxembourg

Eligibility for cash benefits depends on income criteria: individuals living alone must not exceed 776 PLN /month, and individuals in a family must not exceed 600 PLN /month per person. Permanent benefits for 2023 were calculated as the difference between the income threshold and the person's income, with caps at 719 PLN /month (individuals) and 600 PLN /month (families). As of January 2024, these caps were increased to 1,000 PLN /month (≈240 Euro/month) and 780 PLN /month, respectively. The minimum benefit was raised from 30 PLN to 100 PLN /month (≈24 Euro/month).

Periodic benefits are also available, covering the difference between income thresholds and actual incomes, with minimum amounts set at 20 PLN /month.

In 2021, 975,000 individuals and 926,000 families received benefits, including 76,000 large families and 87,000 single-parent families. Non-cash benefits include crisis intervention, social work, meals, shelter, clothing, counseling, training, and assistance with housing or employment.

Foreigners' access to social assistance depends on their residency status. Eligible groups include those with permanent residence permits, long-term EU resident permits, refugee or subsidiary protection status, or temporary permits for family reunification. Victims of human trafficking, EU citizens, and EFTA nationals residing in Poland may also qualify for specific benefits. Foreigners on short-term or specific-purpose visas (e.g., work or study) are generally excluded.

Healthcare coverage is available for unemployed individuals in social contracts, the homeless in reintegration programs, and beneficiaries of permanent assistance. Refugees and protected persons are also covered under integration programs. Uninsured Polish citizens with insufficient income may receive free emergency or specific healthcare services; foreigners without health insurance may face full costs unless eligible under special provisions for protected or vulnerable groups.

The Government does not express its position on the possible acceptance of Article 13§1 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

The Social Charter breaks with the traditional concept of assistance, which was bound up with the moral duty of charity: "the States Parties are not merely empowered to grant assistance as they think fit; they are under an obligation which they may be called on in court to honour".[94]

The ECSR thus considers as 'social assistance' those benefits for which individual need is the main criterion for eligibility, without any requirement of affiliation to a social security scheme aimed to cover a particular risk, or any requirement of professional activity or payment of contributions.[95] Moreover, as Article 13§1 indicates , assistance is given when no social security benefit ensures that the person concerned has sufficient resources or the means to meet the cost of treatment necessary in their state of health.[96]

The system of assistance must be universal in the sense that benefits must be payable to "any person" on the sole ground that they are in need.[97] A minimum age limit may be set on the

[94] Conclusions I (1969), Statement of Interpretation on Article 13
[95] Conclusions XIII-4 (1996), Statement of Interpretation on Articles 12 and 13
[96] Conclusions XIII-4 (1996), Statement of Interpretation on Articles 12 and 13
[97] European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 48/2008, decision on the merits of 18 February 2009, §38

grant of benefits on condition that the rule ensures that young people below that age limit receive appropriate subsistence assistance[98], not limited to supplementary or conditional assistance.[99] A condition in respect of length of residence in the country or part of its territory (as distinct from a condition in respect of stay or presence) or excluding from social assistance people dismissed for serious misconduct[100] is not in keeping with Article 13§1.[101]

The obligation to provide assistance arises as soon as a person is in need, i.e. unable to obtain "adequate resources".[102] This means the resources needed to live a decent life and meet basic needs in an adequate manner.[103] Conversely, appropriate assistance is that which enables any person to meet their basic needs. The level of resources below which a person is entitled to assistance is assessed by reference to the poverty threshold in the sense defined infra. The entitlement to the right to social assistance arises when the person is unable to obtain resources "either by their own efforts or from other sources, in particular by benefits under a social security scheme".[104]

Article 13§1 does not indicate what form social assistance should take. It may therefore take the form of benefits in cash or in kind. The ECSR has observed that "an income guarantee has been established in most States Parties"[105], but has not in theory made the introduction of an income guarantee system a condition of conformity with Article 13§1. However, where States Parties have not introduced a general income guarantee system, they have been found not to be in conformity with Article 13§1 on the ground that their system of assistance does not cover the whole population.[106]

Everyone who lacks adequate resources must be able to obtain free of charge, in the event of sickness, the care necessitated by their condition.[107] In this context, medical assistance includes free or subsidised health care or payments to enable persons to pay for the care required by their condition.[108] The ECSR has not determined what care must cover, nor whether care is limited to treating illness. It has stated that "it is not within its competence to define the nature of the care required, or the place where it is given".[109] It has however considered that the right to medical assistance should not be confined to emergency situations.[110]

Assistance must be "appropriate", i.e. make it possible to live a decent life and sufficient to cover the individual's basic needs.[111] In order to assess the level of assistance, basic benefits, additional benefits and the poverty threshold in the country are taken into account.[112]

The right to assistance may not depend solely on the discretion of the administrative authorities: it must constitute an individual right laid down in law and be supported by an

[98] Conclusions XV-1 (2000), France
[99] Conclusions 2009, France
[100] Conclusions XIX-2 (2009), Luxembourg
[101] Conclusions XVI-1 (2003), Spain; see also Conclusions 2013, Bosnia and Herzegovina
[102] Conclusions 2013, Bulgaria
[103] Conclusions XIV-1 (1998), Portugal
[104] Finnish Society of Social Rights v. Finland, Complaint No 88/2012, decision on the merits of 9 September 2014, §111
[105] Conclusions XIII-4 (1996), Statement of Interpretation on Article 13§1
[106] Conclusions 2006, Republic of Moldova
[107] European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 46/2007, decision on the merits of 3 December 2008, §44
[108] European Roma Rights Centre (ERRC) v. Bulgaria, Complaint No. 46/2007, decision on the merits of 3 December 2008, §44
[109] Conclusions XIII-4 (1996), Statement of Interpretation on Article 13
[110] Conclusions 2009, Armenia
[111] Conclusions XIX-2 (2009), Latvia
[112] Conclusions XIX-2 (2009), Latvia

effective right of appeal.[113] In particular, making certain forms of social assistance conditional on budgetary resources is not compatible with the Charter.[114]

The law must lay down objective criteria and phrase them in sufficiently precise terms so as not to leave the assessment of the state of need and the necessity of assistance entirely in the hands of the competent authority[115], the law must define the elements taken into account in order to assess the state of need and make the criteria for assessment of that need clear, as well as the procedure for determining whether a person lacks adequate resources, including the methods used to investigate resources and needs.[116] In the absence of a precise legal threshold below which a person is considered in need, or of a common core of criteria underlying the granting of benefits, a one-off allowance cannot be deemed to be a sufficient income guarantee for persons without resources.[117]

The right secured by Article 13§1 places an obligation on states "which they may be called on in court to honour".[118] This does not have to be a court within the country's judicial system, or a judicial body in the institutional sense. The ECSR focuses on the judicial role of the review body, which is to rule on cases within its jurisdiction and hand down binding decisions based on the law.[119]

In accordance with the Appendix to the Charter, foreigners who are nationals of States Parties and are lawfully resident or working regularly in the territory of another Party and lack adequate resources must enjoy an individual right to appropriate assistance on an equal footing with nationals[120], without the need for reciprocity.[121] The appendix to the 1961 Charter requires States Parties to grant "to refugees as defined in the Convention relating to the Status of Refugees, signed at Geneva on 28th July 1951, and lawfully staying in its territory, treatment as favourable as possible, and in any case not less favourable than under the obligations accepted by the State Party under the said Convention and under any other existing international instruments applicable to those refugees".[122] The revised Charter extends that requirement to stateless persons within the meaning of the New York Convention of 1954 on the status of stateless persons, as well as to persons *de facto* stateless because of the lack of documents.[123]

Equality of treatment must be guaranteed once the foreigner has been given permission to reside lawfully or to work regularly in the territory of a State Party. The Charter does not regulate procedures for admitting foreigners to the territory of States Parties, and the rules governing "resident" status are left to national legislation. This stems in particular from the appendix to the Charter in respect of Article 18§1: "It is understood that these provisions [Article 18§1 and paragraph 18 of Part I] are not concerned with the question of entry into the territories of [States which have ratified the Charter] and do not prejudice the provisions of the European Convention on Establishment, signed in Paris on 13th December 1955."[124]

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[113] Conclusions I (1969), Statement of Interpretation on Article 13§1; Conclusions XIII-4 (1996), Statement of Interpretation on Article 13
[114] Conclusions XV-1 (2000), Spain
[115] Conclusions XIII-4 (1996), Statement of Interpretation on Article 13
[116] See also the Conclusions XIII-4 (1996), Statement of Interpretation on Article 13
[117] Conclusions XIX-2 (2009), Greece
[118] Conclusions 2009, Andorra
[119] Conclusions 2009, Andorra
[120] Conclusions XIII-4 (1996), Statement of Interpretation on Article 13²
[121] Conclusions VII (1981), Statement of Interpretation on Article 13§4
[122] Appendix to the 1961 Charter, European Treaty Series - No. 35, §2
[123] Conclusions 2013, Serbia
[124] Appendix to the 1961 Charter, European Treaty Series - No. 35, §2; Appendix to the 1996 Charter, European Treaty Series – No. 163

As a result, the resident status may be made subject to a condition of length of residence or presence in the territory in order to enjoy equality of treatment, always provided that it is not manifestly excessive.[125]

The guarantee of equal treatment in terms of assistance must be enshrined in legislation. The ECSR has how ever accepted that this condition is fulfilled when equality of treatment is provided by an administrative circular.[126]

Equality of treatment means that entitlement to assistance benefits, including income guarantees, is not confined in law to nationals or to certain categories of foreigners and that the criteria applied in practice for the granting of benefits do not differ by reason of nationality.[127] Equality of treatment also implies that additional conditions such as length of residence, or conditions which are harder for foreigners to meet, may not be imposed on them.[128]

Foreigners lawfully resident in the territory of a State Party cannot be repatriated on the sole ground that they are in need of assistance.[129] As long as their lawful residence or regular work continues, they enjoy equal treatment.[130] Where such persons are migrant workers, the also enjoy the protection afforded by Article 19§8, which does not permit expulsion on the ground of needing assistance.[131]

Once the validity of the residence and/or work permit has expired, States Parties have no further obligation towards foreigners covered by the Charter, even if they are in a state of need.[132] However, this does not mean that a country's authorities are authorised to withdraw a residence permit solely on the grounds that the person concerned is without resources and unable to provide for the needs of their family.[133]

Article 13§1 also provides for the right to emergency social and medical assistance to foreigners in an irregular situation, in a limited and exceptional way.[134] It is the same type of emergency social and medical assistance applicable under Article 13§4, to foreigners who are not resident.[135]

Opinion of the ECSR

The ECSR takes note of the measures already in place to ensure the right to social assistance both in law and in practise. However, in the light of the information provided, the ECSR considers that the situation in Poland requires adjustments to bring it in line with the requirements of Article 13§1.

First and foremost, legislative intervention is needed to guarantee the equality of treatment, including of foreigners, in terms of assistance. Citizens of other countries and stateless persons staying legally in Poland shall be able to obtain social and medical assistance of an adequate standard. The entitlement to assistance benefits, including income guarantees, shall not be confined in law to nationals or to certain categories of foreigners. Furthermore, additional

[125] Conclusions XVIII-1 (2006), Czech Republic
[126] Conclusions XIV-1 (1998), Greece
[127] Conclusions XVIII-1 (2006), Belgium; Conclusions XVIII-1 (2006), Germany
[128] Médecins du Monde - International v. France, Complaint No. 67/2011, decision on the merits of 11 September 2012, §176; Conclusions XVIII-1 (2006), Denmark
[129] Conclusions 2017, Bosnia and Herzegovina
[130] Conclusions XIV-1 (1998), Statement of Interpretation on Article 13
[131] Conclusions XIV-1 (1998), Statement of Interpretation on Article 13
[132] Conclusions XXI-2 (2017), Denmark
[133] Conclusions XIV-1 (1998), Norway; Conclusions XXI-2 (2017), Denmark
[134] Conclusions 2013, Statement of Interpretation on Article 13§1 and 13§4
[135] Conclusions XXI-2 (2017), Spain

conditions such as length of residence, or conditions which are harder for foreigners to meet, shall not be imposed on them.

Furthermore, the level of social assistance paid to a single person is not adequate and the information provided does not prove that the right to medical assistance is effectively guaranteed to any person in need.

Therefore the ECSR considers that **obstacles remain with regard to the acceptance by Poland of Article 13§1 of the Charter**.

Article 13§4 - The right to social and medical assistance

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other States Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11th December 1953.

Appendix: Governments not Parties to the European Convention on Social and Medical Assistance may ratify the Charter in respect of this paragraph provided that they grant to nationals of other Parties a treatment which is in conformity with the provisions of the said convention.

Situation in Poland

The Government indicates that under the Act of 12 March 2004 on social assistance, the right to social assistance benefits is granted to individuals meeting specific conditions. These include Polish citizens residing and staying in Poland, as well as certain categories of foreigners legally residing in the country. Foreigners eligible for social assistance include those holding permanent residence permits, long-term EU resident permits, or temporary residence permits for family reunification under certain circumstances. This also extends to individuals granted refugee status, subsidiary protection, or permission to stay for humanitarian reasons or tolerated stay. Citizens of EU Member States, European Free Trade Agreement Member States, and Switzerland, along with their family members, are also entitled to benefits if they have the right of residence or permanent residence in Poland.

Foreigners who are victims of human trafficking are entitled to specific forms of assistance, such as crisis intervention, shelter, meals, clothing, and special-purpose allowances. Similarly, foreigners with humanitarian stay permits or tolerated stay permits can access these forms of assistance.

However, certain foreigners are excluded from receiving social assistance. This includes those residing in Poland on the basis of short-term visas (e.g., for tourism, study, or business), visa-free travel, temporary residence permits for specific professional or educational purposes, and other temporary permits not related to family reunification with refugees or those granted subsidiary protection. Foreigners staying in Poland for purposes such as business activity, studying, scientific research, or volunteering under specific temporary permits are also ineligible.

Furthermore, a decision for expulsion may be issued to a foreigner who lacks the financial means to cover their stay in Poland and cannot demonstrate reliable sources for obtaining such resources.

The Government does not express its position on the possible acceptance of Article 13§4 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 13§4 grants non-resident foreign nationals an entitlement to emergency social and medical assistance.

The personal scope of Article 13§4 differs from that of other Charter provisions. In fact, Paragraph 1§1 of the Appendix, concerning its personal scope, states that Articles 1 to 17 and 20 to 31 apply to foreigners "only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned", but adds that this rule is "without prejudice to Article 12§4, and Article 13§4". Article 13§4 therefore refers to "nationals of other States Parties lawfully within their territories". Accordingly, the beneficiaries of this are foreign nationals who are lawfully present in a particular country but don't have resident status.[136] By definition, no condition of length of presence can be set on the right to emergency assistance.[137]

States Parties are required to provide non-resident foreigners without resources – whether legally present or in an irregular situation - emergency social and medical assistance (accommodation, food, emergency care and clothing) to cope with an urgent and serious state of need (without interpreting too narrowly the "urgency" and "seriousness" criteria).[138] States Parties are not required to apply the guaranteed income arrangements under their social protection systems.[139]

The provision of free emergency medical care must be governed by the individual's particular state of health.[140] Migrant minors in an irregular situation in a country are entitled to receive health care extend ing beyond urgent medical assistance and including primary and secondary care, as well as psychological assistance.[141]

Emergency social assistance should be supported by a right to appeal to an independent body. There must be a functioning appeal mechanism before an independent judicial body in order to determine the proper administration of shelter distribution. This right must also be effective in practice.[142]

The personal and material scope of Article 13§4 is defined by the text of the appendix and that of Article 13§4 itself. Accordingly, such scope is not affected by the reference to the 1953 Convention. The only link between Article 13§4 and the 1953 Convention concerns the conditions under which States Parties can repatriate non-resident foreigners without resources on the ground that they are in need of assistance, namely that the persons are in a fit state of health to be transported (Article 7.a.ii of the 1953 Convention). This option may only be applied in the greatest moderation and then only where there is no objection on humanitarian grounds (Article 7.b of the 1953 Convention, see also Articles 8 to 10).[143] The abovementioned

[136] Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4
[137] European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands, complaint No. 86/2012, decision on the merits of 2 July 2014, §171
[138] Conclusions XIV-1 (1998), The Netherlands; Médecins du Monde - International v. France, complaint No. 67/2011, decision on the merits of 11 September 2012: §178; Conclusions XX-2 (2013), Czech Republic
[139] Conclusions XIII-4 (1996), Statement of Interpretation on Article 13
[140] Conclusions XX-2 (2013), Czech Republic; Conclusions 2013, Sweden; Conclusions XIV-1 (1998), Iceland
[141] Defence for Children International (DCI) v. Belgium, complaint No. 69/2011, decision on the merits of 23 October 2012, §128
[142] European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands, complaint No. 86/2012, decision on the merits of 2 July 2014, §187
[143] Conclusions XIII-4 (1996), Statement of Interpretation on Article 13

conditions for repatriation of non-resident nationals of other States Parties in state of need apply also in respect of States Parties that have not ratified the 1953 Convention.[144] The other conditions set in Article 7 of the 1953 Convention do not apply, insofar as nationals of other States Parties who work regularly or reside legally within the territory of another State Party cannot be repatriated on the sole ground that they are in need of assistance. As long as their legal residence or regular work continues, they enjoy equal treatment laid down in the Appendix. Where such persons are migrant workers, they are also protected by Article 19§8, which would not permit expulsion on the ground of needing social assistance.[145]

Opinion of the ECSR

The ECSR takes note of the measures currently in place to provide non-resident foreign nationals with access to emergency social and medical assistance. However, in the light of the information provided, it considers that the situation in Poland requires adjustments to comply with the requirements of Article 13§4. Specifically, all non-resident foreign nationals who are lawfully present in the territory must be entitled to emergency social assistance.

Therefore the ECSR considers that **obstacles remain with regard to the acceptance by Poland of Article 13§4 of the Charter**.

Article 14§2 - The right to social and medical assistance

With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services.

Situation in Poland

The Government indicates that the Act of 12 March 2004 on social assistance allows government and local government bodies to commission social assistance tasks to non-governmental organisations (NGOs) by providing subsidies for financing or co-financing these tasks. This collaboration is governed by the Act of 24 April 2003 on public benefit activities and volunteering, which outlines the principles of cooperation between NGOs and public administration. Public administration bodies are required to cooperate with NGOs, legal entities, and organisations tied to religious associations, as well as social cooperatives, local government associations, and certain sports clubs, provided these entities operate non-profit and use their income for statutory objectives.

When commissioning public tasks, public administration bodies adhere to principles of efficiency, fair competition, and transparency. They select the most effective use of public funds and provide NGOs with information about goals, funding, and cost calculations for implementing public tasks.

The Act also recognises a qualified type of NGO known as a public benefit organisation (PBO), which must meet specific criteria and register with the National Court Register. PBOs enjoy privileges such as exemptions from corporate income tax, real estate tax, civil law transaction tax, stamp duty, and court fees. Additionally, personal income taxpayers can allocate 1.5% of their tax (1% before 2023) to a PBO of their choice.

NGOs include foundations and associations operating under specific legal acts, such as the Polish Red Cross, and church organisations regulated by separate laws. Many of these

[144] Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4
[145] Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4

organisations receive public funds for social and humanitarian assistance. Between 2016 and 2020, central and local government funding, personal income tax allocations, court awards, and foreign and EU funds supported NGOs in this field, with public funds amounting to: 2016 - PLN 2 billion; 2018 - PLN 2.96 billion; 2020 - PLN 3.67 billion.

Local governments also allocated substantial amounts for social assistance tasks conducted by NGOs, with the funding increasing over time: 2017 - PLN 615 million; 2019 - PLN 824 million; 2020 - PLN 883 million; 2022 - PLN 1,008.1 million.

The Government does not express its position on the possible acceptance of Article 14§2 at this stage.(see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 14§2 requires States Parties to provide support for voluntary associations seeking to establish social welfare services.[146] This does not imply a uniform model, and States Parties may achieve this goal in different ways: they may promote the establishment of social services jointly run by public bodies, private concerns and voluntary associations, or they may leave the provision of certain services entirely to the voluntary sector. The "individuals and voluntary or other organisations" referred to in paragraph 2 include: the voluntary sector (non-governmental organisations and other associations); private individuals, and private firms.[147]

The ECSR examines all forms of support and care mentioned under Article 14§1 as well as financial assistance or tax incentives for the same purpose. States Parties must ensure that private services are accessible on an equal footing to all and are effective, in conformity with the criteria mentioned in Article 14§1. Specifically, States Parties must ensure that public and private services are properly coordinated, and that efficiency does not suffer because of the number of providers involved. In order to control the quality of services and ensure the rights of the users as well as the respect of human dignity and basic freedoms, effective preventive and reparative supervisory system is required.[148]

Article 14§2 also requires States Parties to encourage individuals and organisations to play a part in maintaining services, for example by taking action to strengthen the dialogue with civil society in areas of welfare policy which affect the social welfare services. This includes action to promote representation of specific user–groups in bodies where the public authorities are also represented, as well as action to promote consultation of users on questions concerning organisation of the various social services and the aid they provide.[149] A system of authorisation or accreditation must be set up and the standard of services provided by voluntary organisations must be monitored.[150]

Opinion of the ECSR

As regards the situation in Poland, the ECSR notes the progress made last years and the increase of the amount that local government units commissioned to non-governmental organisations to carry out public tasks in the field of social assistance. In the light of the information provided and the requirements of the Charter's provision, **the ECSR considers that there are no obstacles to the acceptance of Article 14§2 in the near future**.

Article 18§1 - The right to engage in a gainful occupation in the territory of other parties

[146] Conclusions 2005, Statement of Interpretation on Article 14§2
[147] Conclusions 2015, Turkey
[148] Conclusions 2005, Bulgaria
[149] Conclusions 2005, Bulgaria
[150] Conclusions 2017, Armenia

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake to apply existing regulations in a spirit of liberality.

Situation in Poland

Polish immigration policy is based on the assumption that the employment of foreigners should be complementary and meet the actual needs of the Polish market, which is reflected in the regulations on work permits for foreigners, temporary residence permits in connection with work and others. This assumption does not apply to foreigners who have free access to the labour market on the basis of international agreements or in connection with international agreements, in connection with EU law or due to the unlimited right of residence (for example, foreigners from other EU countries, foreigners enjoying protection in the territory of the Republic of Poland, foreigners with a long-term EU resident permit or a permanent residence permit).

Legislation on access of foreigners to the labour market provides for a number of exemptions from the requirement to obtain a work permit or procedural simplifications in the scope of issuing work permits or temporary residence permits in connection with work due to the nature of the work performed or the basis for granting a temporary residence permit.

Temporarily, pursuant to the provisions of the Act of March 12, 2022 on Assistance to Citizens of Ukraine in Connection with the Armed Conflict on the Territory of that State, citizens of Ukraine have free access to the labour market, however, the employer is obliged to notify the competent authority about the employment of a given person.

The Government provides the statistics of work permits for foreigners and the declarations to entrust work between 2017 and 2023.

The Government does not express its position on the possible acceptance of Article 18§1 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 18§1 applies to employees and the self-employed who are nationals of States which are party to the Charter.[151] It also covers members of their family allowed into the country for the purposes of family reunion.[152] Article 18§1 is concerned with administrative practice rather than legal aspects.[153] A State Party may comply with this provision even where its legislation on the employment of forigners contains strict rules, provided that these rules allow some administrative discretion and are applied in a liberal spirit.[154]

Any regulation which *de jure* or *de facto* restricts an authorisation to engage in a gainful occupation to a specific post for a specific employer cannot be regarded as satisfactory.[155]

Economic or social reasons might justify restricting the employment of forigners to specific types of jobs in certain occupational and geographical sectors, but not the obligation to remain in the employment of a specific enterprise.[156]

[151] Conclusions 2012, Serbia
[152] Conclusions 2012, Serbia
[153] Conclusions 2012, Serbia
[154] Conclusions 2012, Serbia
[155] Conclusions II (1971), Statement of Interpretation on Article 18
[156] Conclusions II (1971), Statement of Interpretation on Article 18

Limiting access of foreign workers to the national labour market may occur, for example, with a view to addressing the problem of national unemployment by means of favouring employment of national workers.[157] However, the implementation of such policies limiting access of third-country nationals to the national labour market, should neither lead to a complete exclusion of nationals of non-EU (or non-EEA) States Parties to the Charter from the national labour market, nor substantially limit the possibility for them of acceding the national labour market.[158]
In order to assess the degree of liberality in applying existing regulations, the ECSR requires figures showing the rejection rates for work permits for both first-time and renewal applications.[159] A high percentage of successful applications by nationals of States Parties to the Charter for work permits and for renewal of work permits and a low percentage of refusals has been regarded by the Committee as a clear sign that existing regulations are being applied in a spirit of liberality.[160]

Opinion of the ECSR

The ECSR takes note of the measures already in place to apply existing regulations establishing the right to engage in a gainful occupation in the territory of any other Party in a spirit of liberality. However, in the light of the information provided, the Committee considers that the situation in Poland requires adjustments to bring it in line with the requirements of Article 18§1.

First and foremost, taking into account that Article 18§1 is concerned with administrative practice rather than legal aspects, the ECSR notes the decrease in the number of work permits provided for foreigners last years and at the same time the increase in the number of refusals to provide the permit and in the number of revokations of working permits. What is more, the ECSR notes the absence of data on the number of non-EU nationals legally present in Poland in the assessed time of 2017 – 2023. Additionally, the report does not meet the need for data specifically on non-EEA States Parties to the Charter or any information on the reasons for rejections.

Therefore the ECSR considers that **obstacles remain with regard to the acceptance by Poland of Article 18§1 of the Charter**.

Article 18§2 - The right to engage in a gainful occupation in the territory of other parties

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers.

Situation in Poland

The Government indicates that foreigners without free access to the labour market may work if they obtain a valid work permit or if the employer submits a declaration of entrusting work, which is then registered by the district labour office. Additionally, foreigners may work if they hold a temporary residence permit that includes work authorisation, either for general employment or for professions requiring high qualifications. Those residing abroad who hold a work permit or registered declaration must secure the appropriate visa unless they are exempt.

[157] Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3
[158] Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3
[159] Conclusions XXII-1 (2020), Germany
[160] Conclusions 2012, Serbia

The work permit requirement applies to various categories of foreigners, such as those employed by entities based in Poland, individuals serving on management boards who stay for extended periods, and those delegated to work for foreign employers in Poland for specified durations. During the application process, the governor considers factors such as the employer's staffing needs, the comparability of remuneration, and the applicant's qualifications. A work permit is issued for a specific period, position, and employer, and any substantial changes typically necessitate a new application. If the employer or the applicant fails to meet the necessary conditions, provides false information, or has a history of related offenses, a negative decision may be issued.

Work permit applications incur low fees, ranging from PLN 50 to PLN 200, while declarations of entrusting work require a fee of PLN 100 and are valid for up to two years. Seasonal work permits, which follow a slightly different set of procedures and fees, are issued by local authorities. Overall, these mechanisms ensure that only qualified foreigners, who meet the regulatory requirements, are granted the right to work in Poland.

The Government does not express its position on the possible acceptance of Article 18§2 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Formalities and dues and other charges are one of the aspects of regulations governing the employment of workers also covered by Article 18§3 but are dealt with specifically under this provision.[161]

With regard to the formalities to be completed, conformity with Article 18§2 presupposes the possibility of completing such formalities in the country of destination as well as in the country of origin and obtaining the residence and work permits at the same time and through a single application.[162] It also implies that the documents required (residence/work permits) will be delivered within a reasonable time.[163] An average time of two months for the granting of both work/residence visa for employees as well as self-employed is in compliance with Article 18§2.[164]

Situations where work permits and residence permits are issued under two separate procedures, and foreign nationals are not allowed to submit their applications from within the country, thereby lengthening the time taken to obtain residence permits, are not in conformity with Article 18§2 of the Charter.[165] States Parties are under an obligation to reduce or abolish chancery dues and other charges paid either by foreign workers or by their employers.[166] In order to comply with such an obligation, States must, first of all, not set an excessively high level for the dues and charges in question that is a level likely to prevent or discourage foreign workers from seeking to engage in a gainful occupation, and employers from seeking to employ foreign workers.[167] Fees of €48 charged to employers for obtaining a work permit for a foreign worker, and of €108 for temporary residence or €264 for permanent residence, are considered excessive and therefore not in corfomity with Article 18§2.[168] Fees ranging from €266 to €1536 for work permits are also not in conformity with Article 18§2.[169]

[161] Conclusions IX-1 (1990), United Kingdom
[162] Conclusions 2016, Armenia; Conclusions XVII-2 (2005), Finland
[163] Conclusions XVII-2 (2005), Portugal
[164] Conclusions XVII-2 (2005), Portugal
[165] Conclusions XXII-1 (2020), Iceland; see also Conclusions 2020, Ukraine
[166] Conclusions 2012, Statement of Interpretation of Article 18§2
[167] Conclusions 2012, Statement of Interpretation of Article 18§2
[168] Conclusions 2020, Armenia
[169] Conclusions XXII-1 (2020), United Kingdom

In addition, States Parties have to make concrete efforts to progressively reduce the level of fees and other charges payable by foreign workers or their employers.[170] States are required to demonstrate that they have taken measures towards achieving such a reduction.[171] Otherwise, they will have failed to dem onstrate that they serve the goal of facilitating the effective exercise of the right of foreign workers to engage in a gainful occupation in their territory.[172] The ECSR considers, however, that increases in chancery dues or other charges can be in conformity with Article 18§2 of the Charter as long as they are made for a good reason (for example in order to cover increased processing costs or inflation) and they are not excessive.[173]

Opinion of the ECSR

The ECSR takes note of the measures already in place to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers. The Committee notes that at the time of assessment the formalities and dues and other charges in Poland seem not to be excessive.

However, the ECSR highlights that under Article 18§2, States Parties have to make concrete efforts to progressively reduce the level of fees and other charges payable by foreign workers or their employers and are required to demonstrate that they have taken measures towards achieving such a reduction on a regular basis. What is more, the possibility of completing the formalities in the country of destination as well as in the country of origin and obtaining the residence and work permits at the same time and through a single application should be provided. The report lacks information on such a possibility.

Overall, however, in the light of the information provided and the requirements of the Charter's provision, the ECSR considers that **there are no major obstacles to the acceptance of Article 18§2 by Poland**.

Article 18§3 - The right to engage in a gainful occupation in the territory of other parties

With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake to liberalise, individually or collectively, regulations governing the employment of foreign workers.

Situation in Poland

According to the Act of 20 April 2004 on the promotion of employment and labour market institutions, the same employment conditions apply to foreigners with third-country citizenship and foreigners without any citizenship. Citizens of EU Member States are treated separately.

The regulations indicate foreigners who have access to the labour market. These include: refugees, foreigners with a permanent residence permit, foreigners with a long-term EU resident permit in Poland, foreigners with a permit for tolerated stay, foreigners enjoying temporary protection, family members of a Polish citizen or a foreigner who has obtained access to the labour market on the basis of the above titles, as well as foreigners who have been exempted from this obligation under the regulation of the Minister of Labour and Social Policy of 20 July 2011 on cases in which entrusting work to a foreigner on the territory of the Republic of Poland is permissible without the need to obtain a work permit for a foreigner.

[170] Conclusions 2012, Statement of Interpretation of Article 18§2
[171] Conclusions 2012, Statement of Interpretation of Article 18§2
[172] Conclusions 2012, Statement of Interpretation of Article 18§2
[173] Conclusions XXII-1 (2020), Iceland

In the case of regulated professions, the recognition of professional qualifications obtained in countries other than EU Member States is carried out in accordance with the provisions of national law. In the case of unregulated professions, the decision on the recognition of qualifications obtained abroad is made by the employer.

Foreigners with full access to the labour market (without a work permit, with the right to reside in Poland on grounds other than work, for example, those with a permanent residence permit, a long-term EU resident permit, refugee status, a temporary residence permit for a family member of a Polish citizen, a temporary residence permit for family reunification) may seek employment in the event of job loss. Job loss does not affect the validity of the residence permit. In the case of some temporary residence permits, the granting of which is conditional on having a source of stable and regular income (for example, in the case of a temporary residence permit for family reunification), job loss may be related to the loss of a source of stable and regular income, which may be the basis for withdrawing the permit, unless the foreigner has another source of income. In the case of temporary residence permits granted for the purpose of performing work in Poland (temporary residence and work permit, temporary residence permit for the purpose of performing work in a profession requiring high qualifications), in the event of job loss, it is possible to look for a new job for 30 days during the period of validity of the permit or until the permit is withdrawn – in the case of a temporary residence and work permit replacing the employer.

In the case of a temporary residence permit for the purpose of performing work in a profession requiring high qualifications, it is possible to look for a new job for 3 months, twice during the period of validity of the permit or until the permit is withdrawn, if necessary.

In the case of a temporary residence and work permit replacing the employer, the loss of a job with that employer constitutes the basis for initiating proceedings to withdraw the permit.

The Government does not express its position on the possible acceptance of Article 18§3 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Under Article 18§3, States Parties are required to liberalise periodically the regulations governing the employment of foreign workers in the following areas: access to the national labour market; recognition of certificates, qualifications and diplomas; rights in the event of loss of employment.

The conditions laid down for access by foreign workers to the national labour market must not be excessively restrictive, in particular with regard to the geographical area in which the occupation can be carried out and the requirements be met.[174]

States Parties may make foreign nationals' access to employment on their territory subject to possession of a work permit but they cannot ban nationals of States Parties in general from occupying jobs for reasons other than those set out in Article G of the Charter.[175] A person who has been legally resident for a given length of time on the territory of another Party should be able to enjoy the same rights as national of that country.[176] The restrictions initially imposed with regard to access to employment must therefore be gradually lifted.[177]

[174] Conclusions V (1977), Germany
[175] Conclusions 2012, Ireland
[176] Conclusions 2012, Ireland
[177] Conclusions 2012, Ireland

In order not to be in contradiction with Article 18 of the Charter, the implementation of policies limiting access of third-country nationals to the national labour market, should neither lead to a complete exclusion of nationals of non-EU (or non-EEA) States Parties to the Charter from the national labour market, nor substantially limit the possibility for them of acceding the national labour market.[178] Such a situation, deriving from the implementation of "priority rules" of the kind just mentioned, would not be in conformity with Article 18§3, since the State in question would not comply with its obligation to progressively liberalise regulations governing the access to the national labour market with respect to foreign workers of a number of States Parties to the Charter.[179]

Article 18§3 requires each State Party to liberalise regulations governing the employment of foreign workers, in order to ensure to the workers from other States Parties the effective exercise of the right to engage in a gainful occupation.[180] With a view to ensuring the effective exercise of this right, the States Parties' engagement in liberalisation shall include regulations governing the recognition of foreign certificates, professional qualifications and diplomas, to the extent that such qualifications and certifications are necessary to engage in a gainful occupation as employees or self-employed workers.[181]

Both the granting and the cancellation of work and temporary residence permits may well be interlinked, in as much as they pursue the same goal, namely, to enable a foreigner to engage in a gainful occupation.[182]

In cases where a work permit is revoked before the date of expiry, either because the employment contract is prematurely terminated, or because the worker no longer meets the conditions under which the work permit was granted, it would be contrary to the Charter to automatically deprive such worker of the possibility to continue to reside in the State Party concerned and to seek another job and a new work permit, unless there are exceptional circumstances which would authorise expulsion of the foreign worker concerned, in the meaning of Article 19§8.[183]

Opinion of the ECSR

The ECSR takes note of the measures already in place to liberalise periodically the regulations governing the employment of foreign workers. The ECSR notes that at the time of assessment the conditions laid down for access by foreign workers to Polish labour market do not seem to be excessively restrictive. The access of foreign nationals' to employment in Poland is subject to possession of a work permit, which is acceptable from the point of view of the Charter's standards. Foreigners with full access to the labour market may seek employment in the event of job loss. As a rule, job loss does not affect the validity of the residence permit. In the case of some temporary residence permits, the granting of which is conditional on having a source of stable and regular income, job loss may be related to the loss of a source of stable and regular income, which may be the basis for withdrawing the permit, unless the foreigner has another source of income. In the case of regulated professions, the recognition of professional qualifications obtained in countries other than EU Member States is carried out in accordance with the provisions of national law. In the case of unregulated professions, the decision on the recognition of qualifications obtained abroad is made by the employer.

[178] Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3
[179] Conclusions 2012, Statement of Interpretation on Article 18§1 and 18§3
[180] Conclusions 2012, Statement of interpretation on Article 18§3
[181] Conclusions 2012, Statement of interpretation on Article 18§3
[182] Conclusions 2012, Statement of interpretation on Article 18§3
[183] Conclusions 2012, Statement of interpretation on Article 18§3

In the light of the information provided and the requirements of the Charter's provision, the ECSR considers that **there are no major obstacles to the acceptance of Article 18§3 by Poland in the near future**.

However, the ECSR highlights that under Article 18§3 States Parties are required to liberalise periodically the regulations governing the employment of foreign workers in the areas of access to the national labour market; recognition of certificates, qualifications and diplomas; rights in the event of loss of employment. The ECSR sees considerable room for improvement in case of Poland, especially as in the case of a temporary residence and work permit for a particular employer, the loss of a job with that employer constitutes the basis for initiating proceedings to withdraw the permit. Moreover, liberalisation shall include regulations governing the recognition of foreign certificates, professional qualifications and diplomas in the case of unregulated professions.

III. EXAMINATION OF THE NEW PROVISIONS OF THE REVISED EUROPEAN SOCIAL CHARTER (in comparison to 1961 Charter)

Article 2§6 - The right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship.

Situation in Poland

The Government indicates that the employment relationship is established on the date specified in the employment contract as the date on which work commences. The employment contract is concluded in writing. If the employment contract has not been concluded in written form, the employer, before admitting the employee to work, shall confirm to the employee in writing the arrangements regarding the parties to the contract, the type of contract and its terms.

The employment contract specifies the parties to the contract, the employer's registered office address, and in the case of an employer who is a natural person and does not have a registered office - the address of his/her residence, as well as the type of contract, the date of its conclusion and the terms of work and remuneration, in particular: type of work, place or places of work, remuneration for work corresponding to the type of work, indicating the components of remuneration, working time, the date of commencement of work. Other information must be delivered in writen within 7 days from the date the employee is admitted to work.

The Government does not express its position on the possible acceptance of Article 2§6 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 2§6 guarantees the right of workers to written information when starting employment. It can be included in the employment contract or another document.[184] The information must be provided to workers as soon as possible and in any event not later that two months after the date of commencement of their employment and must cover at least the essential aspects of the employment relationship or contract, as specified in the case law of the ECSR.[185]

Opinion of the ECSR

In view of the information provided and subject to compliance with the required notification period for the employment contract, the ECSR considers that **there are no obstacles for Poland to accept Article 2§6 of the Charter and so recommends its acceptance in the near future**.

Article 2§7 - The right to just conditions of work

With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake to ensure that workers performing night work benefit from measures which take account of the special nature of the work.

Situation in Poland

The Government has clarified several key points regarding night work as outlined in the Labour Code. Night time is defined as an 8-hour period between 9:00 p.m. and 7:00 a.m. Employees whose schedules include at least three hours of night work in each 24-hour period, or who spend at least one-quarter of their working time during the settlement period at night, are classified as night workers. For those performing particularly dangerous tasks or work requiring significant physical or mental effort, the working time must not exceed 8 hours per 24-hour period. Employers determine the list of such work in consultation with trade unions or employee representatives, alongside input from medical professionals to ensure occupational safety and health. However, this limitation does not apply during emergency rescue operations or for workplace managers acting on behalf of the employer.

The Government emphasizes that there is an absolute ban on night work for pregnant women and young workers. Disabled workers are also prohibited from night employment unless their doctor grants consent. Additionally, workers caring for children under 8 years old are subject to a relative ban on night work, which can be lifted only with their agreement.

Employers must ensure that employees have valid medical certificates confirming their fitness to work under specific conditions before allowing them to perform their duties. Workers are also required to undergo medical examinations when changing job positions. The frequency and scope of these preventive examinations depend on workplace factors and are guided by regulations issued by the Minister of Health and Social Welfare. Occupational physicians determine the timing of periodic checkups on a case-by-case basis.

Establishing work schedules is a prerogative of the employer. Employees who are not subject to bans on night work cannot demand schedule adjustments to avoid night shifts. However, workers under relative bans on night work have such rights under labour law. In establishments operating continuously, shift work, including night shifts, is essential, making it impossible to eliminate night work entirely.

The Government underscores the employer's obligation to consult employees or their representatives on matters related to occupational health and safety, particularly for tasks

[184] Conclusions 2014, Republic of Moldova; Conclusions 2018, Ukraine
[185] Conclusions 2003, Bulgaria

involving high risks or significant effort. Employers with more than 250 employees must establish a health and safety committee. This committee meets quarterly to review working conditions, assess workplace health and safety, provide recommendations to prevent workplace accidents and illnesses, and collaborate with the employer to enhance safety measures. These consultations and committee activities aim to foster safer and healthier work environments.

The Government does not express its position on the possible acceptance of Article 2§7 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 2§7 guarantees compensatory measures for persons performing night work. Domestic law or practice must define what is considered to be "night work" within the context of this provision, namely what period is considered to be "night" and who is considered to be a "night worker".[186]

The measures which take account of the special nature of the work must at least include the following:
- regular medical examinations, including a check prior to employment on night work.[187] Such medical examination should be provided free of charge[188];
- the provision of possibilities for transfer to daytime work;[189]
- continuous consultation with workers' representatives on the introduction of night work, on night work conditions and on measures taken to reconcile the needs of workers with the special nature of night work.[190]

Article 2§7 (and mutatis mutandis 7§9) require that workers undergo regular medical examinations. However, the ECSR does not lay down detailed standards as regards the organisation of medical services in this respect. At the same time, these provisions should be read in conjunction with Article 3§4 of the Charter, which require States Parties to promote the progressive development of occupational health services for all workers with essentially preventive and advisory services. According to that provision, occupational health services, which are specialised in occupational medicine, have preventive and advisory functions, beyond mere safety at work[191]. They contribute to conducting workplace-related risk assessment and prevention, worker health supervision, training in matters of occupational safety and health, as well as to assessing working conditions impact on worker health[192]. Occupational health services must be trained, endowed and staffed to identify, measure and prevent work-related stress, aggression and violence[193]. The Appendix to the Charter provides that for the purposes of Article 3§4, "the functions, organisation and conditions of operation of these services shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions."

Opinion of the ECSR

The ECSR takes note of the measures already in place to guarantee compensatory measures for persons performing night work. The ECSR notes that Polish regulations define what period

[186] Conclusions 2014, Bulgaria; Conclusions 2018, Georgia
[187] Conclusions 2003, Romania
[188] Conclusions 2018, Bosnia and Herzegovina
[189] Conclusions 2003, Romania
[190] Conclusions 2003, Romania
[191] Conclusions 2009, Andorra
[192] Conclusions 2003, Bulgaria
[193] Conclusions 2013, Statement of Interpretation on Article 3

is considered to be “night” and who is considered to be a “night worker”. What is more, regular medical examinations, including a check prior to employment on night work, provided free of charge and continuous consultation with workers’ representatives on the issues connected with night work are guaranteed.

However, the ECSR also notes that there is room for improvement from the perspective of the Charter, particularly regarding the right to transfer from night to daytime work. At the time of assessment, labour law provisions did not grant employees—who are not covered by the general prohibition on night work—the right to request a change in their work schedule to avoid night shifts or to reduce the number of hours worked at night. According to the standards of the Charter, measures addressing the specific nature of night work must, at a minimum, include the possibility for employees to transfer to daytime work.

Therefore, in the light of the information provided and the requirements of the Charter’s provision, the ECSR considers that **there are no major obstacles to the acceptance of Article 2§7 by Poland**.

Article 3§4 - The right to safe and healthy working conditions

With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers' and workers' organisations to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions.

Situation in Poland

The Government indicates that Poland has ratified ILO Convention No. 161 and implemented EU Directive 89/391. The tasks, organisation and operating conditions of occupational health services are regulated by the Act of 27 June 1997 on occupational health services. The service was established to protect the health of workers from the effects of unfavorable conditions related to the work environment and the way it is performed, as well as to provide preventive health care for workers.

The occupational health service is responsible for carrying out tasks in the scope of: limiting the harmful effects of work on health; preventive health care for employees; outpatient medical rehabilitation; organising and providing first aid in the event of sudden illnesses and accidents that occurred at the place of work, service or education; initiating and implementing health promotion, and in particular preventive health programmes resulting from the assessment of the health status of employees; initiating employers’ actions to protect employees’ health and providing assistance in their implementation.

The tasks of the occupational health service are performed by: doctors, nurses, psychologists and other people with professional qualifications necessary to perform the tasks of this service. People performing the tasks of the occupational health service, in performing their professional activities are independent of employers, employees and their representatives and other entities on whose behalf they perform the tasks.

Funds for the operation of occupational health services are provided by employers and the budget of the provincial government. The state budget may finance, in whole or in part, programs for the prevention of health hazards resulting from the impact of unfavourable conditions of the work environment and the way of performing work, in particular those revealed through epidemiological studies.

The Government does not express its position on the possible acceptance of Article 3§4 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 3§4 requires States Parties to promote, in consultation with employers' and workers' organisations, the progressive development of occupational health services that are accessible to all workers, in all branches of economic activity and for all enterprises.[194] If those services are not established within all enterprises, public authorities must develop a strategy, in consultation with employers' and workers' organisations, for that purpose.[195]

In terms of Article 3§4, States Parties are required to promote the progressive development of occupational services.[196] This means that a State Party must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources.[197]

The number of occupational physicians in the total workforce, the number of enterprises providing occupational health services or who share those services, as well as any increase in the number of workers supervised by those services in comparison to the previous reference period, is relevant on the assessment of State Party conformity to this provision, as is the ratification of ILO Occupational Health Services Convention No. 161 (1985), or the transposition of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work.[198]

Opinion of the ECSR

The ECSR takes note of the measures already in place to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions. The ECSR notes that Poland has ratified ILO Convention No. 161 and implemented EU Directive 89/391. Polish occupational health services are specialised in occupational medicine, have preventive and advisory functions, beyond mere safety at work.

They contribute to conducting workplace-related risk assessment and prevention, worker health supervision, training in matters of occupational safety and health, as well as to assessing working conditions impact on worker health. Occupational health services are professionally trained, endowed and staffed enough to identify, measure and prevent work-related stress, aggression and violence. Funds for the operation of occupational health services are provided by employers and the budget of the provincial government.

However, the ECSR also notes that there is room for improvement from the perspective of the Charter, particularly regarding the personal scope of protection. According to the information provided in the report, occupational health examinations do not cover individuals working under atypical contracts, the self-employed, those engaged under civil law contracts, or workers in the gig and platform economies. In contrast, the Charter requires that all workers, in all workplaces and across all sectors, be covered by occupational safety and health regulations. The term "workers" in Article 3 is understood to include both employed and self-employed individuals—especially given that the latter are frequently engaged in high-risk sectors.

[194] Conclusions 2003, Bulgaria
[195] Conclusions 2003, Bulgaria
[196] Conclusions 2009, Albania
[197] Conclusions 2009, Albania, citing International Association Autism Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, §53.
[198] Conclusions 2009, France; Albania, Slovenia; Conclusions 2017, Bulgaria

Therefore, in the light of the information provided and the requirements of the Charter's provision, the ECSR considers that **there are no major obstacles to the acceptance of Article 3§4 by Poland**.

Article 8§5 - The right of employed women to protection of maternity

With a view to ensuring the effective exercise of the right of employed women to the protection of maternity, the Parties undertake to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining, and all other work which is unsuitable by reason of its dangerous, unhealthy, or arduous nature and to take appropriate measures to protect the employment rights of these women.

Situation in Poland

The Government indicates that pregnancy-related rights under the Labour Code ensure comprehensive protection for pregnant and breastfeeding workers from the moment pregnancy is confirmed with a medical certificate.

These women workers are prohibited from performing work that is strenuous, dangerous, or harmful to their health, pregnancy, or breastfeeding. The specific types of restricted work are detailed in the Council of Ministers' regulation of 3 April 2017, which outlines jobs such as those involving increased or reduced pressure, underground mining, or work in excavations, tanks, or channels. The regulation also specifies limits on physical effort, including the weight of objects that can be carried, as well as activities requiring significant physical exertion.

Employers must take proactive measures to ensure the safety of pregnant or breastfeeding women:

- For prohibited work, regardless of the level of exposure to harmful or dangerous factors, the employer must transfer the employee to a different role. If reassignment is not possible, the employee must be released from work for the necessary period.
- For other types of work deemed unsuitable, employers must adapt the working conditions or reduce working hours to eliminate risks. If these adjustments are not feasible, the employee must either be transferred to a suitable role or released from work.

These measures also apply if medical contraindications to the employee's current job are indicated in a medical certificate.

If a change in working conditions, shortening the working time or transferring the employee to another job results in a reduction in remuneration, the employee is entitled to a compensatory allowance. During the period of exemption from the obligation to perform work, the employee retains the right to the previous remuneration.

The Government does not express its position on the possible acceptance of Article 8§5 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 8§5 applies to all pregnant women, women who have recently given birth or who are nursing their infant, in paid employment. This provision prohibits the employment of pregnant women, women who have recently given birth and women nursing their infants in underground work in mines.[199] This applies to extraction work proper, but not to women who: occupy

[199] Conclusions X-2 (1988), Statement of Interpretation on Article 8§5 (i.e. 8§4b) of the 1961 Charter

managerial posts and do not perform manual work; work in health and welfare services; spend brief training periods in underground sections of mines.[200]

Certain other dangerous activities, such as those involving exposure to lead, benzene, ionizing radiation, high temperatures, vibration or viral agents, must be prohibited or strictly regulated for the group of women concerned depending on the risks posed by the work.[201]

Domestic law must ensure a high level of protection against all known hazards to the health and safety of women who come within the scope of this provision.[202] Domestic law must make provision for the re-assignment of women who are pregnant or breastfeeding if their work is unsuitable to their condition, with no loss of pay.[203] If this is not possible women should be entitled to paid leave or social security benefit corresponding to 100% of their previous average pay.[204] The employees' right to return to their previous employment at the end of their maternity/nursing period should be provided for by law.[205]

Opinion of the ECSR

The ECSR takes note of the measures already in place to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining, and all other work which is unsuitable by reason of its dangerous, unhealthy, or arduous nature. However, in the light of the information provided, the ECSR considers that the situation in Poland requires adjustments to bring it in line with the requirements of Article 8§5.

First and foremost, while the provision prohibits the employment of pregnant women, women who have recently given birth and women nursing their infants in underground work in mines, Polish regulations only specify which types of work (including underground work in all types of mines) cannot be performed by pregnant women and breastfeeding women, which means underground work in mines is not prohibited by law as such.

The ECSR notes further the absence of information on the employees' right to return to their previous employment at the end of the protected period in case of reassignment of pregnant or breastfeeding women due to the nature of their employment, to a different post.

Therefore the ECSR considers that **obstacles remain with regard to the acceptance by Poland of Article 8§5 of the Charter**.

Article 10§5 - The right to vocational training

With a view to ensuring the effective exercise of the right to vocational training, the Parties undertake to encourage the full utilisation of the facilities provided by appropriate measures such as:

- **i) reducing or abolishing any fees or charges;**
- **ii) granting financial assistance in appropriate cases;**
- **iii) including in the normal working hours time spent on supplementary training taken by the worker, at the request of his employer, during employment;**
- **iv) ensuring, through adequate supervision, in consultation with the employers' and workers' organisations, the efficiency of apprenticeship and other**

[200] Conclusions X-2 (1990), Statement of Interpretation on Article 8§5 (i.e. 8§4b) of the 1961 Charter
[201] Conclusions 2019, Ukraine
[202] Conclusions 2003, Bulgaria
[203] Conclusions 2019, Statement of Interpretation on Article 8§4 and 8§5
[204] Conclusions 2019, Statement of Interpretation on Article 8§4 and 8§5
[205] Conclusions 2019, Ukraine

training arrangements for young workers, and the adequate protection of young workers generally.

Situation in Poland

The Government indicates that vocational training is organised by labour offices and takes place as part of education in secondary schools and higher education institutions, as well as as part of preparation for a profession (based on an employment contract for vocational training). Training is free of charge.

People using the support of labour offices in the scope of training are entitled to: payment of training costs, payment of scholarships to training participants, a loan to finance training costs, up to the equivalent of 400% of the average salary, financing of exam costs and costs of obtaining a license, up to the equivalent of 300% of the average salary, financing of postgraduate studies costs, up to the equivalent of 300% of the average salary.

An employee improving their professional qualifications is entitled to training leave, leave from all or part of the working day, for the time necessary to attend classes and for their duration. For the period of training leave and for the period of leave from all or part of the working day, the employee retains the right to remuneration.

According to the Act of 7 September 1991 on the education system, a student is entitled to financial assistance. Such assistance is provided to students in order to reduce differences in access to education, to enable overcoming barriers to access to education resulting from the student's difficult financial situation, and to support talented students. Social assistance benefits include: school scholarship and school allowance. A school scholarship may be received by a student who is in a difficult financial situation resulting from low income per person in the family. School allowance is available to students who are temporarily in a difficult financial situation due to an unexpected event, for example, whose financial situation has deteriorated due to illness or death of a parent.

The Government does not express its position on the possible acceptance of Article 10§5 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 10§5 provides for complementary measures which are fundamental to make access to vocational training effective in practice. The equality of treatment shall be provided to nationals of other States Parties lawfully resident or regularly working on the territory of the State Party concerned.[206]

States Parties must ensure that vocational training is provided free of charge or that fees are progressively reduced.[207] The granting of financial assistance in appropriate cases means providing financial assistance to persons who would not otherwise be in a position to undergo apprenticeship or training.[208] It entails, in addition to free or low-cost training, the provision of assistance in the form of grants, allowances or other arrangements where necessary. States Parties must provide financial assistance either universally, or subject to a means-test, or

[206] Conclusions XVI-2 (2004), United Kingdom
[207] Conclusions 2020, Malta
[208] Conclusions XIII-1 (1993), Turkey

awarded on the basis of the merit.[209] In any event, assistance should at least be available for those in need and shall be adequate.[210]

The time spent on supplementary training at the request of the employer must be included in the normal working-hours.[211] Supplementary training means any kind of training that may be helpful in connection with the current occupation of the workers and aimed at increasing their skills.[212]

States Parties must evaluate their vocational training programmes for young workers, including the apprenticeships.[213] In particular, the participation of employers' and workers' organisations is required in supervising the effectiveness of training schemes.[214]

Opinion of the ECSR

The ECSR takes note of the measures already in place to provide complementary measures which are fundamental to make access to vocational training effective in practice.
The ECSR notes that vocational training in Poland is provided free of charge and that the granting of financial assistance in appropriate cases includes providing financial assistance to persons who would not otherwise be in a position to undergo apprenticeship or training. An employee improving their professional qualifications is entitled to training leave, leave from all or part of the working day, for the time necessary to attend classes and for their duration. For the period of training leave and for the period of leave from all or part of the working day, the employee retains the right to remuneration.

However, the ECSR identifies room for improvement and emphasizes that, under the standards of the Charter, equal treatment must be ensured for nationals of other States Parties who are lawfully resident in, or regularly working on, the territory of the State Party concerned. According to current Polish regulations, although foreigners are granted the right to participate in vocational training organised by labour offices, they are not entitled to financial assistance during the training period. They are also excluded from reimbursement of training costs, loans to finance training, and co-financing from the Labour Fund for postgraduate studies.

Therefore, with regard to Article 10§5, in the light of the information provided and the requirements of this provision, the ECSR notes that **there are no major obstacles to the acceptance of Article 10§5 by Poland in the near future**.

Article 15§3 - The right of persons with disabilities to independence, social integration and participation in the life of the community

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular: to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.

[209] Conclusions XIX-1 (2008), Turkey
[210] Conclusions XIX-1 (2008), Turkey
[211] Conclusions 2020, Turkey
[212] Conclusions 2020, Turkey
[213] Conclusions 2020, Lithuania
[214] Conclusions XIV-2 (1998), United Kingdom

Situation in Poland

Disability policy

The directions of the policy and actions for its implementation are defined in the Strategy for Persons with Disabilities 2021-2030. The strategy is based on a comprehensive, horizontal and cross-sectoral approach to supporting persons with disabilities, aimed at meeting their needs for independent living and social and professional inclusion, and thus guaranteeing their rights set out in the Convention on the Rights of Persons with Disabilities. The actions provided for in the strategy concern the following areas: independent living, accessibility, education, work, living conditions and social protection, health, awareness building, coordination and have been described in the Report of Polish Government in details.

The implementation of the strategy is monitored by the Government Plenipotentiary for Disabled Persons. The process of monitoring the implementation of the strategy involves organisations of disabled persons, other non-governmental organisations operating in the area of disability, as well as disabled persons, among others within the Team for the implementation of the provisions of the Convention on the Rights of Persons with Disabilities, the National Consultative Council for Disabled Persons, the Polish Sign Language Council and the Accessibility Council.

The expenditure on support for legally disabled persons (having a certificate of disability or degree of disability, or an equivalent certificate) and their carers increased from PLN 17 billion in 2015 to PLN 40 billion in 2023.

Assisted decision-making

On 3 July 2023, a team was established to develop proposals for normative solutions aimed at replacing the legal institution of incapacity with a model of assisted decision-making. The team is tasked with drafting legal proposals for this transition, issuing opinions on draft legislation within its scope, and carrying out related assignments from the Prime Minister. The objective is to identify suitable legislative measures and assess their potential impact on various areas of life and civil and legal relations.

Economic situation of disabled people, disability benefits

In parallel, disabled individuals in Poland receive a range of financial support measures. These include benefits under old-age and disability insurance, as well as dedicated forms of assistance such as the social pension, care allowance, and incapacity allowance. The care allowance partially covers the costs of care and assistance required as a result of their inability to live independently. Additional support is available for caregivers through the carer's allowance and dependency benefit. Disabled individuals may also receive permanent or periodic social assistance, and may be eligible for placement in social assistance homes or support centres. The care allowance is designed to partially cover the cost of care for those unable to live independently and is granted to children with disabilities or to adults with a certificate of severe disability. Adults with a certificate of moderate disability may also qualify if the condition began before the age of 21. Additionally, a care supplement is available to individuals who are totally unable to work and live independently, as certified, or to those aged 75 and above.

Services in the home, assistance with independent living

The law of 12 March 2004 on social assistance provides for the provision of care at the place of residence, in support centres and in family assistance homes, as well as the provision of specialised care at the place of residence and in support centres. From 1 November 2023, care may take the form of community-based services.

The "Social Services Development Strategy, public policy up to 2030, with a view to 2035", aims to support the development of social services provided in the residential environment, as well as supporting families who care for people who need help with their day-to-day functioning.

Institutional care, deinstitutionalisation

A person requiring 24-hour care and unable to function independently may be referred to a social care home once it has been established that assistance in the form of home care cannot be provided. The social care home provides daily living services, care, support and education to the extent and in the forms resulting from the individual needs of the people staying there.
The process of deinstitutionalisation is the subject of the "Disability Strategy 2021-2030". The following actions are envisaged: carrying out an in-depth analysis of how to carry out the deinstitutionalisation process, drawing up and implementing detailed action plans, timetables and financial plans at national and regional level, and monitoring the deinstitutionalisation process.

Infrastructure accesibility

The Law of 19 July 2019 on accessibility for people with special needs requires all public entities to meet minimum standards for architectural, digital, and information and communication accessibility. This includes ensuring obstacle-free movement within buildings, access to all non-technical areas, accessible information about the premises (visually, tactilely, or by voice), entry with an assistance dog, and safe evacuation or rescue options. When public tasks or contracts are outsourced using public funds, the contract must specify accessibility requirements in relevant areas. The law also introduced voluntary accessibility certification for companies and NGOs to confirm compliance with these standards.
Additional legal provisions support accessibility. The Law of 17 March 2003 on spatial planning mandates that planning and development consider the health, safety, and needs of disabled people, with technical regulations setting investment parameters. The Building Act of 7 July 1994 requires that all public and multi-family residential buildings constructed after 1 January 1995 be accessible to disabled people, especially those using wheelchairs. Accessibility must be addressed in building designs, and any changes to these provisions require an amendment to the building permit.
The Regulation of the Minister for Infrastructure of 24 June 2022 on the technical and construction rules for public roads sets out the basic conditions that all public roads must meet.

Accessibility of products and services, information and communication

The law of 19 July 2019 on accessibility for people with special needs imposes on all public entities the obligation to comply with minimum requirements in terms of accessibility of information and communication.
The Telecommunications Act of 16 July 2014 imposes an obligation on all providers of telephone services for the public to provide facilities for people with disabilities, including, insofar as is technically possible, access to telephone services equivalent to that enjoyed by the majority of end users.
The proposed law to ensure that economic entities meet accessibility requirements for certain products and services will oblige private and public entities to market products and provide services, listed in the law, that meet accessibility requirements. This will help to reduce barriers to information and communication for disabled people and people with special needs.
The law will set out new accessibility requirements for IT hardware, including operating systems, payment terminals, interactive self-service terminals such as automatic teller machines, traffic ticket machines, queuing ticket machines in banks, self-service check-in facilities, interactive information displays, as well as e-book readers and devices used to access electronic communication services, such as routers or modems. These products will need to be able to communicate and orientate using multiple sensory channels, a means of communication and orientation other than speech, a mode of operation with limited range and physical force, and the ability to connect to assistive devices. The new requirements will also cover the way in which product information is made available.

Access to culture, leisure and sport

The grants for sport, culture, leisure and tourism for disabled people provided by the National Fund for the Rehabilitation of Disabled People are intended, among other things, to support

and promote the creativity of disabled people, to improve their psychophysical strength through physical activity, and to organise recreational activities, competitions and sporting events. These activities promote the social integration of disabled people and raise awareness among non-disabled residents of the problems and needs associated with disability.

The Government does not express its position on the possible acceptance of Article 15§3 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Under Article 15§3 there shall be comprehensive non-discrimination legislation covering both the public and private sphere in fields such as housing, transport, telecommunications and cultural and leisure activities.[215] Such legislation may consist of general anti-discrimination legislation, specific legislation or a combination of the two.[216] There shall also be effective remedies for those who have been treated unlawfully.[217]

States shall adopt a coherent policy in the disability context which includes positive action measures to achieve the goals of social integration and full participation of persons with disabilities.[218] Such measures should have a clear legal basis and be coordinated[219], and people with disabilities should have a voice in the design, implementation and review of such policy.[220]

States shall also remove barriers to communication and mobility to enable access to transport (land, rail, sea and air), housing (public, social and private), cultural activities and leisure (social and sporting activities). They shall establish mechanisms to assess the barriers to communication and mobility faced by persons with disabilities, and identify the support measures that are required to assist them in overcoming these barriers.[221] All public transport vehicles, all newly constructed or renovated public buildings, facilities and buildings open to the public should be physically accessible[222], and there shall be tangible progress in adapting existing environment. Technical aids (prostheses, walkers, wheelchairs, guide dogs etc) must be available either free of charge or subject to an appropriate contribution towards their cost and taking into account the beneficiary's means.[223] Support services (such as personal assistance and auxillary aids) must be available, either free of charge or subject to an appropriate contribution towards their cost and taking into account the beneficiary's means.[224] Telecommunications and new information technology must be accessible, and sign language must have an official status.[225]

The needs of persons with disabilities must be taken into account in housing policies, including the construction of an adequate supply of suitable housing including social housing.[226] Financial assistance should be provided for the adaptation of existing housing.[227]

Opinion of the ECSR

[215] Conclusions 2005, Norway
[216] Conclusions 2012, Estonia
[217] Conclusions 2005, Norway
[218] Conclusions 2007, Slovenia
[219] Conclusions 2007, Slovenia
[220] Conclusions 2020, Serbia; Conclusions 2005, Norway
[221] Conclusions 2008, Statement of Interpretation on Article 15§3
[222] Conclusions 2016, Latvia, citing Conclusions 2003, Italy
[223] Conclusions 2008, Statement of Interpretation on Article 15§3
[224] Conclusions 2008, Statement of Interpretation on Article 15§3
[225] Conclusions 2016, Austria, citing Conclusions 2005, Estonia and Conclusions 2003, Slovenia
[226] Conclusions 2003, Italy
[227] Conclusions 2003, Italy

The ECSR recognises the continuing progress made by the Polish authorities to develop national legislation and programmes promoting the rights of persons with disabilities, their social integration and participation in the life of the community.

However, the Committee notes that three of the four concerns were addressed through:

- the directions of the policy and actions for the implementation of the Convention and the mainstreaming of its provisions are defined in the Strategy for Persons with Disabilities 2021-2030. The strategy is based on a comprehensive, horizontal and cross-sectoral approach to supporting persons with disabilities;

- the Strategy for Persons with Disabilities 2021-2030 includes activities in the area of "Building awareness", which are planned to raise public awareness. These include the creation of an information and service portal www.niepelnosprawni.gov.pl, taking action to include persons with disabilities in the mainstream media, introducing and popularizing standards of service for people with various types of disabilities and training staff, activities to increase awareness in the field of inclusive education for persons with disabilities;

- the Strategy for Persons with Disabilities 2021-2030 includes activities in the area of "Coordination", which are planned to create a coherent support system and ensure cooperation between institutions dealing with the issues of persons with disabilities. The implementation of the strategy is monitored by the Government Plenipotentiary for Persons with Disabilities. The process of monitoring the implementation of the strategy involves organizations of persons with disabilities, other non-governmental organizations operating in the area of disability, as well as persons with disabilities, among others within the Team for the implementation of the provisions of the Convention on the Rights of Persons with Disabilities, the National Consultative Council for Persons with Disabilities, the Polish Sign Language Council and the Accessibility Council.

Taking all the above into consideration, with regard to Article 15§3, in the light of the information provided and the requirements of this provision, the ECSR notes that **there are no major obstacles to the acceptance of Article 15§3 by Poland in the near future.**

Article 17§2 - The right of children and young persons to social, legal and economic protection

With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools.

Appendix: It is understood that this provision covers all persons below the age of 18 years, unless under the law applicable to the child majority is attained earlier, without prejudice to the other specific provisions provided by the Charter, particularly Article 7. This does not imply an obligation to provide compulsory education up to the above-mentioned age.

Situation in Poland

The Government indicates that primary and secondary education is free. Free primary and secondary education is provided to children who are citizens of other countries and stateless

persons. Disabled students have access to general education on the same terms as able-bodied students. The education system provides these students with additional support.

The issue of compulsory schooling and the obligation to learn for children and young people is regulated by the Act of 14 December 2016 - Education Law. Compulsory schooling lasts until the completion of primary school, no longer than until the age of 18. After completing primary school, the obligation to learn is fulfilled by attending a secondary school or completing vocational training with an employer.

Counteracting the phenomenon of students dropping out of the school system is based on cooperation between the school and parents, school management bodies and bodies exercising pedagogical supervision. Cooperation with social organisations, foundations and associations working for children and youth in a given area is also ensured. In the 2017/2018 school year, 5,906 primary school students, or 0.2% of those subject to compulsory education, did not fulfill their school obligation without a valid reason. In the 2021/2022 school year, the figures were 2,271 and 0.06%, respectively.

In accordance with the Act of 7 September 1991 on the education system, a student is entitled to financial assistance from funds allocated for this purpose in the state budget or the budget of a local government unit. Financial assistance is provided to students in order to reduce differences in access to education, to enable overcoming barriers to access to education resulting from the student's difficult financial situation, and to support the education of gifted students. The benefits of social assistance are: school scholarship and school allowance. A student may be granted both social and motivational assistance.

In 2023, PLN 186.3 million was allocated for financial assistance for students. Assistance programs for disabled students are being implemented, in the form of co-financing the purchase of textbooks, educational materials and exercise materials. In 2020-2022, PLN 35.2 million was spent for this purpose. 34,571 students benefited from the support, in 2021 - 37,389 students, in 2022 - 39,635 students.

The Government does not express its position on the possible acceptance of Article 17§2 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

The ECSR recalls that Article 17 requires States Parties to establish and maintain an education system that is both accessible and effective.[228] The number of children enrolled in school should reach 100% of those of the relevant age. There must be a mechanism to control the quality of teaching and the methods used.[229] Education must be compulsory until the minimum age for admission to employment.[230]

Equal access to education must be ensured for all children, including children from vulnerable groups that must be integrated into mainstream educational facilities and ordinary educational schemes.[231] States Parties must ensure the quality of education, which includes a sufficient number of schools equitably distributed throughout the country and class sizes that allow teachers to work effectively with each child.[232]

[228] Conclusions 2003, Bulgaria
[229] Conclusions 2003, Bulgaria
[230] Conclusions 2003, Statement of interpretation on Article 17
[231] Mental Disability Advocacy Center (MDAC) v. Bulgaria, Complaint No. 41/2007, decision on the merits of 3 June 2008, §34, citing Conclusions 2003, Bulgaria
[232] Conclusions 2003, Bulgaria

Primary and secondary education must be free of charge.[233] Article 17§2 implies that all hidden costs such as books or uniforms must be reasonable, and assistance must be available to limit their impact on the most vulnerable population groups so as not to undermine the goal being pursued.[234]

Opinion of the ECSR

The ECSR acknowledges the continued progress made by the Polish authorities in developing national legislation and programmes aimed at creating a more accessible and effective education system. It also notes the significant decrease in the number of students dropping out of school in recent years.

However, from the perspective of the Charter, the ECSR observes that further improvements are needed—particularly in reducing the number of children who drop out or do not complete compulsory education, as well as addressing school absenteeism. According to the standards set by the Charter, school enrolment should reach 100% of children of the relevant age. Regular awareness-raising activities should also be conducted in all educational institutions.

In addition, the ECSR notes the absence of information on anti-bullying policies in schools, including measures for awareness-raising, prevention, and intervention. It also highlights the lack of details on efforts by the State to promote child participation in decision-making and activities related to education.

Taking all of the above into consideration, and in the light of the information provided and the requirements of Article 17§2, the ECSR concludes **that there are no major obstacles to Poland's acceptance of Article 17§2 in the near future**.

Article 19§11 - The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to promote and facilitate the teaching of the national language of the receiving state or, if there are several, one of these languages, to migrant workers and members of their families.

Situation in Poland

Teaching the language of the host country is regulated by the Act of 14 December 2016 - Education Law and the Regulation of the Minister of National Education of 23 August 2017 on the education of persons who are not Polish citizens and Polish citizens who received education in schools operating in the education systems of other countries.

Persons who are not Polish citizens, subject to compulsory schooling and compulsory education (until the age of 18 or completion of primary school), who do not know Polish or know it at a level insufficient to benefit from education, have the right to free Polish language lessons in the form of additional classes, for no longer than 24 months. Additional Polish language lessons are organized by the school governing body. Classes are conducted individually or in groups, in the amount of no less than 2 teaching hours per week, allowing for mastering the Polish language to a degree that allows for participation in compulsory educational classes.

[233] Conclusions 2003, Bulgaria
[234] Conclusions 2003, Bulgaria

In the 2021/2022-2023/2024 school years, for students who are citizens of Ukraine who came to Poland in connection with the armed conflict on the territory of that country, classes are conducted individually or in groups of no more than 15 students, for no less than 6 teaching hours per week.

According to the Act of 13 June 2003 on granting protection to foreigners on the territory of the Republic of Poland, learning Polish is also one of the components of social assistance provided by the Office for Foreigners. Polish language instruction is provided to foreigners applying for international protection, covered by social assistance or using temporary protection. Polish language classes are conducted with division into adults and children.

Polish language courses are provided in centres for foreigners, in Warsaw, as well as remotely. The Office for Foreigners has developed programmes and textbooks for learning Polish for children and adults. The programmes take into account the specific communication needs of people applying for international protection in Poland, including real-world and socio-cultural content.

For people who are citizens of Ukraine who came to Poland in connection with the armed conflict on the territory of that country, Polish language courses were organised, financed from the Aid Fund, transferred through the voivodes to non-governmental organisations.

The Government does not express its position on the possible acceptance of Article 19§11 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

States Parties should promote and facilitate the teaching of the national language to children of school age, as well as to the migrants themselves and to members of their families who are no longer of school age.[235] The teaching of the national language of the receiving state is the main means by which migrants and their families can integrate into normal employment and society at large.[236] A requirement to pay substantial fees is not in conformity with the Charter: States Parties are required to provide national language classes free of charge, otherwise for many migrants such classes would not be accessible.[237]

Teaching the language of the host country to primary and secondary school students throughout the school curriculum is not enough to satisfy the obligations laid down by Article 19§11.[238] States Parties must make special efforts to set up additional assistance for children of immigrants who have not attended primary school right from the beginning and who therefore lag behind their fellow students who are nationals of the country.[239]

States Parties shall encourage the teaching of the national language in the workplace, in the voluntary sector or in public establishments such as universities.[240] Such services shall be free of charge so as not to exacerbate the disadvantaged position of migrant workers in the labour market.[241]

Opinion of the ECSR

[235] Conclusions 2002, France
[236] Conclusions 2002, France
[237] Conclusions 2011, Norway
[238] Conclusions 2002, France
[239] Conclusions 2002, France
[240] Conclusions 2002, France
[241] Conclusions 2002, France

The ECSR takes note of the measures currently in place to promote and facilitate the teaching of the national language of the receiving state. It observes that non-Polish citizens who are subject to compulsory schooling and education—until the age of 18 or the completion of primary school—and who do not speak Polish, or speak it at an insufficient level to benefit from education, are entitled to free Polish language instruction. These lessons are offered as additional classes for a period not exceeding 24 months.

The ECSR also notes that Polish language learning is an element of social assistance provided by the Office for Foreigners. Instruction is available to foreigners applying for international protection, those receiving social assistance, or those under temporary protection. Classes are organized separately for adults and children.

However, from the perspective of the Charter, the ECSR notes that there is room for improvement, particularly in the promotion of Polish language instruction for adults. As of the time of assessment, the support in this area appears insufficient. The ECSR recalls that States Parties are expected to encourage the teaching of the national language in workplaces, the voluntary sector, and public institutions such as universities. Moreover, these services should be provided free of charge to avoid further disadvantaging migrant workers in the labour market. In Poland, however, free language education is currently limited to those in the most vulnerable situations.

Therefore, in the light of the information provided and the requirements of this provision, the ECSR considers that **there are no major obstacles to the acceptance of Article 19§11 by Poland in the near future.**

Article 19§12 - The right of migrant workers and their families to protection and assistance

With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake to promote and facilitate, as far as practicable, the teaching of the migrant worker's mother tongue to the children of the migrant worker.

Situation in Poland

The Government indicates that the task of supporting and facilitating the teaching of the native language to children of migrant workers is regulated in the Act of 14 December 2016 - Education Law and the Regulation of the Minister of National Education of 23 August 2017 on the education of persons who are not Polish citizens and persons who are Polish citizens who received education in schools operating in the education systems of other countries.

For students who are not Polish citizens and are subject to compulsory schooling, the diplomatic or consular mission of their country of origin operating in Poland or the cultural and educational association of a given nationality may organize classes in the language and culture of the country of origin at school if at least 7 students are registered to participate in this education. The total number of hours of teaching the language and culture of the country of origin cannot exceed 5 teaching hours per week. The school principal determines, in agreement with the diplomatic or consular mission or association, the days of the week and hours when classes in the language and culture of the country of origin may take place at school. The school provides rooms and teaching aids free of charge.

The Government does not express its position on the possible acceptance of Article 19§12 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

States Parties should promote and facilitate the teaching of the languages most represented among the migrants present on their territories within their school systems or in other contexts such as voluntary associations or non-governmental organisations.[242]

For a comprehensive assessment of the situation under this provision, the ECSR takes into consideration, in particular, the following detailed information:

- statistics on major migrant groups[243],

- whether any measures or projects have been put in place in the framework of the school system or other structures to provide education of migrants' mother tongue[244],

- whether the children of migrants have access to multilingual education and on what basis; what steps that government has taken to facilitate the access of migrants' children to these schools[245],

- whether any non-governmental organisations or other bodies, such as local associations, cultural centres or private initiatives that teach migrant workers' children the language of their country of origin, and whether they receive support.[246]

Opinion of the ECSR

The ECSR takes note of the measures currently in place to promote and facilitate the teaching of migrant workers' mother tongues to their children. While a legal framework supporting such promotion exists, the ECSR notes that no detailed information has been provided regarding the major migrant groups in Poland or on specific measures or projects already implemented. However, to enable a full assessment of the situation, the ECSR requests the provision of statistics on the principal migrant groups as well as comprehensive information on any concrete measures or initiatives already undertaken.

In the light of the information provided and the requirements of this provision, the ECSR considers that **there are no major obstacles to Poland's acceptance of Article 19§12 in the near future.**

Article 20 - The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties under take to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:

a. access to employment, protection against dismissal and occupational reintegration;

b. vocational guidance, training, retraining and rehabilitation;

[242] Conclusions 2002, Italy; Conclusions 2011, Armenia; Conclusions 2011, Statement of Interpretation on Article 19§12
[243] Conclusions 2019, Albania
[244] Conclusions 2019, Albania
[245] Conclusions 2019, Albania
[246] Conclusions 2019, Albania

c. terms of employment and working conditions, including remuneration;

d. career development, including promotion.

Appendix:

1. It is understood that social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor's benefit, may be excluded from the scope of this article.

2. Provisions concerning the protection of women, particularly as regards pregnancy, confinement and the post-natal period, shall not be deemed to be discrimination as referred to in this article.

3. This article shall not prevent the adoption of specific measures aimed at removing de facto inequalities.

4. Occupational activities which, by reason of their nature or the context in which they are carried out, can be entrusted only to persons of a particular sex may be excluded from the scope of this article or some of its provisions. This provision is not to be interpreted as requiring the Parties to embody in laws or regulations a list of occupations which, by reason of their nature or the context in which they are carried out, may be reserved to persons of a particular sex.

Situation in Poland

According to the Labour Code, any discrimination in employment, direct or indirect, including on the basis of gender, is unacceptable. Employees have equal rights due to the equal performance of the same duties. This applies, in particular, to the equal treatment of men and women in employment. Employees should be treated equally in employment, including regardless of gender, in terms of: entering into and terminating employment relationships; employment conditions; promotion; access to training to improve professional qualifications.

Employees have the right to equal pay for equal work or work of equal value. As for the expectation that legislation should enable comparisons of wages between companies, Polish court rulings repeatedly refer to comparisons of wages within the same employer.

According to the Labour Code, provisions of employment contracts and other acts on the basis of which an employment relationship is established, violating the principle of equal treatment in employment, are invalid by operation of law. Instead of such provisions, appropriate provisions of labour law shall apply, and in the absence of such provisions, they shall be replaced by appropriate provisions that are not discriminatory in nature. Provisions of collective labour agreements and other collective agreements, regulations and statutes based on the law, specifying the rights and obligations of the parties to an employment relationship, violating the principle of equal treatment in employment, shall not apply.

An employee whose employer has terminated their employment contract in breach of the provisions on the prohibition of discrimination in employment may file a claim with the labour court in the event of unjustified or unlawful termination or dissolution of the employment contract. In cases concerning a breach of the principle of equal treatment in employment, the reverse burden of proof rule applies, i.e. the burden of proving that there has been no breach of the principle of equal treatment rests with the employer.

A person against whom the employer has violated the principle of equal treatment in employment has the right to compensation in an amount not lower than the minimum wage. The upper limit of compensation is not specified in the law. Compensation is decided by the labour court in proceedings initiated at the employee's request.

Polish court rulings repeatedly refer to comparing salaries at the same employer. For example, in the Supreme Court ruling of 12 February 2013 (II PK 163/12), the court referred to the "principle of basic remuneration of members of the same chamber" (regional accounting chamber). The courts did not address the issue of comparing salaries from a "single source", but it seems that Polish labour law does not exclude such comparisons. Due to the lack of rulings, it is not possible to clearly determine what the courts' interpretation in this respect would be.

An employee who believes that they are being discriminated against by their employer may file a complaint with the National Labour Inspectorate. In connection with the complaint, the labour inspector shall undertake control activities necessary to determine the validity of the allegations raised in the complaint. If the circumstances of the case indicate that discrimination has occurred, the labour inspector may apply a legal remedy in the form of a motion containing motions to eliminate the identified violations and, if necessary, to impose consequences on those responsible.

The "National Action Programme for Equal Treatment 2022-2030" provides for activities aimed at supporting equal opportunities for women and men in the labour market, including tasks related to eliminating the pay gap between women and men, reconciling private and professional life, promoting women in managerial positions, supporting groups exposed to discrimination in the labour market due to age, disability, race, nationality, ethnic origin, religion and denomination and sexual orientation and family status, as well as promoting diversity management in the workplace.

The Government does not express its position on the possible acceptance of Article 20 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 20 guarantees the right to equality of opportunity and equal treatment in the field of employment and occupation, without discrimination based on sex.[247] Acceptance of Article 20 entails the following obligations for States Parties:

- the obligation to promulgate this right in legislation;[248]

- the obligation to take legal measures designed to ensure the effectiveness of this right.[249]

In this regard, such measures must provide for the nullity of clauses in collective agreements and individual contracts which are contrary to the principle; as well as for adequate appeal procedures where the right has been violated and for the effective protection of workers against any retaliatory measures (dismissal or other measures) taken as a result of their demand to benefit from the right.[250]

- the obligation to define an active policy and to take practical measures to implement it.[251]

Opinion of the ECSR

[247] Conclusions XIII-3 (1995), Statement of Interpretation on Article 1 of the Additional Protocol
[248] Conclusions XIII-3 (1995), Statement of Interpretation on Article 1 of the Additional Protocol
[249] Conclusions XIII-3 (1995), Statement of Interpretation on Article 1 of the Additional Protocol
[250] Conclusions XIII-3 (1995), Statement of Interpretation on Article 1 of the Additional Protocol
[251] Conclusions XIII-3 (1995), Statement of Interpretation on Article 1 of the Additional Protocol

In view of all the above, with regard to Article 20, in the light of the information provided and the requirements of this provision, the ECSR considers that **there are no obstacles to the acceptance of Article 20 by Poland in the near future.**

Article 21 - The right to information and consultation

With a view to ensuring the effective exercise of the right of workers to be informed and consulted within the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their repre sentatives, in accordance with national legislation and practice:

- **a. to be informed regularly or at the appropriate time and in a comprehensible way about the economic and financial situation of the undertaking employing them, on the understanding that the disclosure of certain information which could be prejudicial to the undertaking may be refused or subject to confidentiality; and**
- **b. b. to be consulted in good time on proposed decisions which could substantially affect the interests of workers, particularly on those decisions which could have an important impact on the employment situation in the undertaking.**

Appendix (Articles 21 and 22)
1. For the purpose of the application of these articles, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.
2. The terms "national legislation and practice" embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers' representatives, customs as well as relevant case law.
3. For the purpose of the application of these articles, the term "undertaking" is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or services for financial gain and with power to determine its own market policy.
4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are "undertakings" within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.
5. It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions. 6. The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

<u>Situation in Poland</u>

The information and consultation mechanisms are based on the provisions of the Act of 7 April 2006 on informing and consulting employees, which applies to employers conducting business activities and employing at least 50 employees. The Act provides for a permanent and universal system of information and consultation, with the proviso that the establishment of a

works council is dependent on the employees' application. It specifies the conditions for informing and consulting employees and the principles for electing a works council.

Consultations are to consist of an exchange of views and the initiation of a dialogue between the employer and the works council. They should be conducted at a time, in a form and to a extent that enables the employer to take action on matters covered by them, at an appropriate level, depending on the subject of the discussion, based on information provided by the employer and the opinion presented by the works council and the dissenting opinion of a member of the works council, in order to enable an agreement to be reached between the works council and the employer.

The procedures of establishing the council and the rules of its functioning are regulated in details in the Act of 2006, in compliance with the EU directive 2002/14 and are described in details in the Polish report.

The Government does not express its position on the possible acceptance of Article 21 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST

Article 21 of the Charter entitles employees and/or their representatives, be they trade unions, staff committees, works councils or health and safety committees, to be informed of any matter that could affect their working environment, unless the disclosure of such information could be prejudicial to the undertaking.[252]

They must also be consulted in good time on proposed decisions that could substantially affect their interests, particularly ones that might have a significant impact on the employment situation in their undertaking.[253]

The national situation is in conformity with the requirements of Article 21 of the Charter if legal provisions governing the information and consultation of workers cover all categories of workers and all undertakings.[254]

States Parties may exclude from the scope of this provision those undertakings employing less than a certain number of workers, to be determined by national legislation or practice. For example, undertakings with at least 50 employees or establishments with at least 20 employees in any one EU member state may be excluded from the scope of this provision, as per the thresholds established by Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002.[255] All categories of employee (in other words, all employees with an employment contract with an undertaking, whatever their status, length of service or workplace) must be taken into account when calculating the number of employees covered by the right to information and consultation.[256]

Even though Article 21 may apply to workers in state-owned enterprises, public employees as a whole are not covered by these provisions.[257]

[252] Conclusions XIX-3 (2010), Croatia
[253] Conclusions XIX-3 (2010), Croatia
[254] Conclusions 2010, Belgium, citing Conclusions XVI-2 (2004), Greece
[255] Conclusions XIX-3 (2010), Croatia
[256] Conclusions XIX-3 (2010), Croatia
[257] European Council of Police Trade Unions (CESP) v. Portugal, Complaint No. 40/2007, decision on the merits of 23 September 2008, §42

The determination of the material scope of the workers' right to information and consultation within the undertaking is mainly left to collective bargaining.[258]
In order to effectively guarantee the workers' rights under Article 21, there must be a supervising mechanism such as a Labour Inspectorate that can impose sanctions for the violation of the provisions on access to infor mation and consultation.[259] Administrative and/or judicial procedures must be available to employees or their representatives who consider that their right to information and consultation within the undertaking has not been respected.[260] In particular, all employees or their representatives must have legal capacity to trigger an administrative action against their employer and have a subsequent right of appeal before a court.[261] There must also be sanctions for employers which fail to fulfil their obligations under this Article.[262]

Opinion of the ECSR

In the light of the information provided and the requirements of the revised Charter's provision, the ECSR considers that **there are no obstacles to the acceptance of Article 21**.

Article 22 - The right to take part in the determination and improvement of the working conditions and working environment

With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:
a. to the determination and the improvement of the working conditions, work organisation and working environment;
b. to the protection of health and safety within the undertaking;
c. to the organisation of social and socio-cultural services and facilities within the undertaking;
d. to the supervision of the observance of regulations on these matters.

Appendix (Articles 21 and 22):
1. For the purpose of the application of these articles, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.
2. The terms "national legislation and practice" embrace as the case may be, in addition to laws and regulations, collective agreements, other agreements between employers and workers' representatives, customs as well as relevant case law.
3. For the purpose of the application of these articles, the term "undertaking" is understood as referring to a set of tangible and intangible components, with or without legal personality, formed to produce goods or services for financial gain and with power to determine its own market policy.
4. It is understood that religious communities and their institutions may be excluded from the application of these articles, even if these institutions are "undertakings" within the meaning of paragraph 3. Establishments pursuing activities which are inspired by certain ideals or guided by certain moral concepts, ideals and concepts which are protected by national legislation, may be excluded from the application of these articles to such an extent as is necessary to protect the orientation of the undertaking.

[258] Conclusions 2003, Romania
[259] Conclusions 2018, Republic of Moldova
[260] Conclusions 2018, Ukraine
[261] Conclusions 2003, Romania
[262] Conclusions 2005, Lithuania

5. It is understood that where in a state the rights set out in these articles are exercised in the various establishments of the undertaking, the Party concerned is to be considered as fulfilling the obligations deriving from these provisions.
6. The Parties may exclude from the field of application of these articles, those undertakings employing less than a certain number of workers, to be determined by national legislation or practice.

Appendix (Article 22):
1. This provision affects neither the powers and obligations of states as regards the adoption of health and safety regulations for workplaces, nor the powers and responsibilities of bodies in charge of monitoring their application.
2. The terms « social and socio-cultural services and facilities » are understood as referring to the social and/or cultural facilities for workers provided by some undertakings such as welfare assistance, sports fields, rooms for nursing mothers, libraries, children's holiday camps, etc.

Situation in Poland

The Government indicates that, under the Acts of 23 May 1991 on Trade Unions and Employers' Organisations, representative social partner organisations have the right to give an opinion and present ammendments on proposed legal acts, including those affecting occupational health and safety. Trade unions monitor compliance with labour laws and may challenge any unlawful or unjust actions by state bodies, local governments, or employers.

The Labour Code guarantees employee participation in decisions on working conditions, work organisation, and health and safety. Employers must establish work regulations in consultation with trade unions, defining workplace rights and obligations. For companies without trade unions, it is the obligation of the employer to draw up internal regulations if they employ at least 50 people.

In organisations with more than 250 employees, an occupational health and safety committee must be formed. This committee, composed equally of employer and workers representatives—including health and safety staff and a social labour inspector—reviews working conditions, assesses safety measures, and proposes improvements.

Consulting workers or workers' representatives in the improvement of working conditions, including health and safety at workplace is a basic principle established by both the Labour Code and the Law on Trade Unions.

The Government does not express its position on the possible acceptance of Article 22 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

The workers' right to take part in the determination and improvement of the working conditions and work ing environment implies that workers may contribute, to a certain extent, to the employer's decision-making process.[263] The great majority of workers (at least 80 %) must be granted a right to participate in the deter mination and improvement of the working conditions and working environment within the undertaking.[264] This provision applies to all undertakings, whether private or public.[265]

[263] Conclusions 2005, Estonia
[264] Conclusions 2007, Italy
[265] Conclusions 2018, Latvia

Even though Article 22 may apply to workers in state-owned enterprises, public employees are as a whole not covered by this provision.[266] It follows that the right of police staff to participation in the determination and improvement of their working conditions and working environment does not fall within the scope of application of Article 22 of the revised Charter.[267] States Parties may exclude from the scope of this provision those undertakings employing less than a certain number of workers, to be determined by national legislation or practice and tendency undertakings.[268]

Workers and/or their representatives (trade unions, worker's delegates, health and safety representatives, works councils) must be granted an effective right to participate in the decision-making process and the supervision of the observance of regulations regarding the protection of health and safety within the undertaking.[269]

The right to take part in the organisation of social and socio-cultural services and facilities only applies in undertakings where such services and facilities are planned or have already been established.[270] Article 22 of the Charter does not require that employers offer social and socio-cultural services and facilities to their employees but requires that workers may participate in their organisation, where such services and facilities have been established.[271]

Workers must have legal remedies when these rights are not respected.[272] There must also be sanctions for employers which fail to fulfil their obligations under this Article.[273]

Opinion of the ECSR

In the light of the information provided and the requirements of the revised Charter's provision, the ECSR considers that **there are no obstacles to the acceptance of Article 22.**

Article 23 - The right of elderly persons to social protection

With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in co-operation with public or private organisations, appropriate measures designed in particular:

- to enable elderly persons to remain full members of society for as long as possible, by means of:

a. **adequate resources enabling them to lead a decent life and play an active part in public, social and cultural life;**
b. **provision of information about services and facilities available for elderly persons and their opportunities to make use of them;**

- to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of:

[266] European Council of Police Trade Unions (CESP) v. Portugal, Complaint No. 60/2010, decision on the merits of 17 October 2011, §36
[267] European Council of Police Trade Unions (CESP) v. Portugal, Complaint No. 60/2010, decision on the merits of 17 October 2011, §36
[268] Conclusions 2018, Latvia; see also Conclusions 2005, Estonia
[269] Conclusions 2018, Latvia
[270] Conclusions 2018, Latvia
[271] Conclusions 2018, Latvia; Conclusions 2007, Italy; Conclusions 2007, Armenia
[272] Conclusions 2003, Bulgaria
[273] Conclusions 2003, Bulgaria, Slovenia

a. **provision of housing suited to their needs and their state of health or of adequate support for adapting their housing;**
b. **the health care and the services necessitated by their state; fto guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.**

Appendix: For the purpose of the application of this paragraph, the term « for as long as possible » refers to the elderly person's physical, psychological and intellectual capacities.

Situation in Poland

The Government indicates that the programmatic document "Social Policy towards Older People 2030. Security-Participation-Solidarity" sets out a comprehensive strategy aimed at ensuring robust social protection and active participation for older people in Poland.

The Government explains that the programme is tailored to support diverse needs. Recognising the significant diversity among older individuals, the policy distinguishes between independent and dependent seniors. This enables a more precise assessment of needs and the provision of appropriately tailored services in areas such as medical and social care, rehabilitation, and social participation.

Furthermore, this strategy is promoting the active and inclusive ageing, focusing on shaping a positive societal perception of old age and fostering active engagement. It supports a wide range of activities—civic, cultural, artistic, sports, religious, and economic—that empower older people to participate fully in society. Health promotion, disease prevention, enhanced physical safety, and intergenerational integration are also central to the plan.

The Government indicates that financial and community support measures are put in place and they include additional pension benefits (the 13th and 14th pensions) and a care allowance, which together help secure a stable income for seniors. Social assistance benefits further supplement the incomes of those facing hardship. The multi-annual program for the elderly "Aktywni+" for 2021-2025 co-finances projects aimed at increasing seniors' social participation, digital inclusion, and overall quality of life. In addition, activities for the elderly, carried out by entities belonging to the non-governmental sector, have been co-financed under the Civic Initiatives Fund since 2005, with the main objective to increase the participation of non-governmental organisations and church entities and religious associations conducting public benefit activities in the implementation of public tasks.

The Government informs that under the Act of 11 September 2015 on the Elderly, the implementation of social policy for the elderly is rigorously monitored by public administration bodies, ensuring that the needs of older people are met and that the policy remains responsive to evolving challenges. It indicates that every year, the Council of Ministers prepares information on the situation of the elderly in Poland.

The "National Action Program for Equal Treatment for 2022-2030" provides for a debate with the participation of representatives of non-governmental organisations and other institutions associating and dealing with older people, as well as representatives of employers interested in the possibilities of cooperation with older people. The debate will be preceded by information about the project, posted on social media, with a request for representatives of both sides to apply.

In 2021, 317 projects were implemented with the participation of 38,000 seniors, for 39 million PLN (≈ 9.31 mil Euro). In 2022, 313 projects involving 44,000 seniors were financed, for 39 million PLN, and in 2023, 518 projects involving 60,000 seniors, for 39 million PLN.

The Government strategic documents embodies a holistic approach to safeguarding the social rights of older people—ensuring that they receive not only adequate financial support and access to essential services but also the opportunity to remain active, integrated, and valued members of society.

The Government does not express its position on the possible acceptance of Article 23 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

The ECSR recalls that Article 23 of the Charter is the first human rights treaty provision to specifically protect the rights of the older people.[274] The measures envisaged by this provision, by their objectives as much as by the means of implementing them, point towards a new and progressive notion of what life should be for older persons, obliging the Parties to devise and carry out coherent actions in the different areas covered.[275]

One of the primary objectives of Article 23 is to enable older people to remain full members of society. The expression "full members" means that older persons must suffer no ostracism on account of their age.[276] The right to take part in society's various fields of activity should be granted to everyone active or retired, living in an institution or not.[277] Article 23 requires States Parties to combat age discrimination in a range of areas other than employment, namely access to goods, facilities and services[278], health care, education, services such as insurance and banking products, participation in policy-making/civil dialogue, allocation of resources and facilities.[279] An adequate legal framework is therefore a fundamental measure to combat age discrimination in these areas.[280]

The national legal framework must provide appropriate safeguards to prevent arbitrary deprivation of the autonomous decision-making of older persons, even in cases of reduced decision-making capacity.[281] It must be ensured that the person acting on behalf of older persons interferes as little as possible with their wishes and rights[282]. Article 23 also requires States Parties to take appropriate measures against abuse of older persons.[283] States Parties must therefore take steps to assess the extent of the problem, raise awareness of the need to eradicate abuse and neglect of older persons, and adopt legislative or other measures.[284]

Opinion of the ECSR

In the light of the information provided and the requirements of the revised Charter's provision, the ECSR considers that **there are no obstacles to the acceptance of Article 23.**

[274] Conclusions XIII-3 (1995), Statement of Interpretation on Article 4 of the Additional Protocol (Article 23)
[275] Conclusions XIII-3 (1995), Statement of Interpretation on Article 4 of the Additional Protocol (Article 23)
[276] Fellesforbundet for Sjøfolk (FFFS) v. Norway, Complaint No. 74/2011, decision on the merits of 2 July 2013, §116
[277] Fellesforbundet for Sjøfolk (FFFS) v. Norway, Complaint No. 74/2011, decision on the merits of 2 July 2013, §116, citing Conclusions XIII-5, Finland
[278] Conclusions 2009, Andorra
[279] Conclusions 2009, Andorra
[280] Conclusions 2009, Andorra
[281] Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making
[282] Conclusions 2013, Statement of Interpretation Article 23 – assisted decision-making
[283] Conclusions 2009, Andorra
[284] Conclusions 2009, Andorra

Article 24 - The right to protection in cases of termination of employment

With a view to ensuring the effective exercise of the right of workers to protection in cases of termination of employment, the Parties undertake to recognise:

a. the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;

b. the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.

To this end the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.

Appendix

1. It is understood that for the purposes of this article the terms "termination of employment" and "terminated" mean termination of employment at the initiative of the employer.

2. It is understood that this article covers all workers but that a Party may exclude from some or all of its protection the following categories of employed persons:

- ***a. workers engaged under a contract of employment for a specified period of time or a specified task;***
- ***b. workers undergoing a period of probation or a qualifying period of employment, provided that this is determined in advance and is of a reasonable duration;***
- ***c. workers engaged on a casual basis for a short period.***

3. For the purpose of this article the following, in particular, shall not constitute valid reasons for termination of employment:

- ***d. trade union membership or participation in union activities outside working hours, or, with the consent of the employer, within working hours;***
- ***e. seeking office as, acting or having acted in the capacity of a workers' representative;***
- ***f. the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;***
- ***g. race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;***
- ***h. maternity or parental leave;***
- ***i. temporary absence from work due to illness or injury.***

4. It is understood that compensation or other appropriate relief in case of termination of employment without valid reasons shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.

<u>Situation in Poland</u>

The dismissal of an employee at the initiative of the employer may take place by way of notice of termination of the employment contract or termination of the contract without notice. These issues are regulated by the Labour Code. In the case of dismissals for reasons not related to

employees, if the employer employs at least 20 employees, the provisions of the Act of 13 March 2003 on special rules for terminating employment relationships with employees for reasons not related to employees apply.

The Labour Code does not specify a list of reasons justifying the termination of an employment contract. The termination of the contract may take place for reasons attributable to the employee and for reasons not related to the employee (including those related to the employer). There is extensive case law of the Supreme Court regarding the reasons justifying the termination of an employment contract. In the light of this case law, the reason must be specific and justifying the termination, real and true.

A declaration of will to terminate or terminate an employment contract without notice should be made in writing. The employer's statement on the termination of an employment contract concluded for a fixed term or an employment contract concluded for an indefinite period or on the termination of an employment contract without notice should indicate the reason justifying the termination or termination of the contract.

The Government does not express its position on the possible acceptance of Article 24 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 24 relates to termination of employment at the initiative of the employer.[285] All workers who have signed an employment contract are entitled to protection in the event of termination of employment.[286] However, according to the appendix, the States Party may exclude one or more of the following categories:

- workers engaged under a contract of employment for a specified period of time or a specified task; [287]
- workers undergoing a period of probation or a qualifying period of employment, provided that this is determined in advance and is of a reasonable duration.[288] Exclusion of employees from protection against dismissal for six months during the probationary period is not reasonable if applied indiscriminately, regardless of the employee's qualification.[289] A one year period of exclusion is manifestly unreasonable and therefore not in conformity with the Charter.[290];
- workers engaged on a casual basis for a short period.[291]

This list is exhaustive. The ECSR refers to its conclusions and decisions regarding the definition of valid reasons for the termination of employment and the prohibition of termination of employment for certain reasons.[292]

Any employee who believes that he or she has been dismissed without just cause should have the right to appeal to an impartial body.[293] Employees dismissed without valid reason must be granted adequate compensation or other appropriate relief.[294]

[285] Conclusions 2012, Statement of Interpretation on Article 24
[286] Conclusions 2003, Italy
[287] Appendix to the European Social Charter (Revised) – European Treaty Series – No. 163
[288] Appendix to the European Social Charter (Revised) – European Treaty Series – No. 163
[289] Conclusions 2012, Ireland; Conclusions 2012, Cyprus; Conclusions 2003, Italy
[290] Conclusions 2012, Ireland
[291] Appendix to the European Social Charter (Revised) – European Treaty Series – No. 163
[292] Conclusions 2012, Ireland
[293] Conclusions 2005, Cyprus, France, Estonia
[294] Conclusions 2016, North Macedonia

In order to be considered appropriate, compensation should include reimbursement of financial losses incurred between the date of dismissal and the decision of the appeal body ruling on the lawfulness of the dismissal, the possibility of reinstatement and/or compensation sufficient both to deter the employer and proportionate to the damage suffered by the victim.[295]

Opinion of the ECSR

The ECSR takes note of the measures already in place to recognise the right to protection in cases of termination of employment. It particularly notes that all workers with a signed employment contract are entitled to protection against dismissal. Furthermore, any employee who believes they have been dismissed without just cause has the right to appeal to a court. Employees dismissed without valid reason are entitled to adequate compensation or other appropriate remedies.

However, it should be noted that retaliatory dismissal is not explicitly prohibited except in cases of discrimination. Beyond this, the ECSR considers that existing safeguards are insufficient to prevent employers in the platform or gig economy from circumventing labour laws by classifying workers as self-employed, thereby denying them protection against unfair dismissal.

In the light of the information provided and the requirements of the revised Charter, the ECSR considers that **there are no major obstacles to Poland's acceptance of Article 24 in the near future.**

Article 25 - The right of workers to the protection of their claims in the event of the insolvency of their employer

With a view to ensuring the effective exercise of the right of workers to the protection of their claims in the event of the insolvency of their employer, the Parties undertake to provide that workers' claims arising from contracts of employment or employment relationships be guaranteed by a guarantee institution or by any other effective form of protection.

Appendix

1. It is understood that the competent national authority may, by way of exemption and after consulting organisations of employers and workers, exclude certain categories of workers from the protection provided by reason of the special nature of their employment relationship.

2. It is understood that the definition of the term "insolvency" must be determined by national law and practice.

3. The workers' claims covered by this provision shall include at least:

- ***a. the workers' claims for wages relating to a prescribed period, which shall not be less than three months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or to the termination of employment;***
- ***b. the workers' claims for holiday pay due as a result of work performed during the year in which the insolvency or the termination of employment occurred;***
- ***c. the workers' claims for amounts due in respect of other types of paid absence relating to a prescribed period, which shall not be less than three***

[295] Conclusions 2016, North Macedonia, Finnish Society of Social Rights v. Finland, decision on the merits of 8 September 2016

months under a privilege system and eight weeks under a guarantee system, prior to the insolvency or the termination of the employment.

4. National laws or regulations may limit the protection of workers' claims to a prescribed amount, which shall be of a socially acceptable level.

Situation in Poland

The Government indicates that the protection of workers' claims in the event of the employer's insolvency is implemented through a combination of two forms:

– a guarantee institution, which is the Salary Benefits Guaranteed Fund operating under the Act of 13 July 2006 on the protection of workers claims in the event of the employer's insolvency. The Fund has the status of a state earmarked fund. The financial resources of the fund come from contributions paid by employers; the contribution to the fund is determined from payments constituting the basis for calculating contributions for retirement and disability insurance. The amount of the contribution to the fund is specified in the budget act,

– privilege, specified in the Act of 28 February 2003 - Bankruptcy Law, according to which receivables from an employment relationship are included in the first category of creditors' interests.

The provisions of the Act of 28 February 2003 - Bankruptcy Law also contain the concept of an "insolvent debtor who is an entrepreneur" against whom bankruptcy may be declared; a separate act also specifies the principles of restructuring proceedings against entrepreneurs threatened with insolvency.

The protection of employee claims by the Guaranteed Employee Benefits Fund concerns the main claims for remuneration for work and sums due to the employee under generally applicable provisions of labour law (remuneration for the period of downtime not caused by the employee, for the period of non-performance of work (release from work) and for the period of other justified absence from work; remuneration for the period of the employee's incapacity to work due to illness; remuneration for the period of vacation leave; severance pay due under the provisions on special rules for terminating employment relationships with employees for reasons not related to employees; cash equivalent for vacation leave, due for the calendar year in which the employment relationship ended; compensation; compensatory allowance; social insurance contributions due from employers under the provisions on the social insurance system, due from benefits paid from the Fund's resources).

An employee covered by the protection is a person who is in an employment relationship with the employer or is employed on the basis of a home-based employment contract or performs work on the basis of an agency contract or a contract for the provision of services to which, in accordance with the Civil Code, the provisions on the contract for the provision of services apply, or performs paid work on a basis other than an employment relationship for an employer who is an agricultural production cooperative, a cooperative of agricultural circles or another cooperative engaged in agricultural production - if on this account they are subject to mandatory retirement and disability insurance, with the exception of domestic help employed by a natural person.

Claims for: – remuneration for work, – remuneration for the period of downtime not caused by the employee, – remuneration for the period of non-performance of work (release from work), – remuneration for the period of other justified absence from work, – remuneration for the period of the employee's incapacity for work due to illness, – remuneration for the period of vacation, – compensatory allowance, are subject to satisfaction for a period not longer than 3 months preceding the date of the employer's insolvency or for a period not longer than 3 months preceding the termination of the employment relationship, if the termination of the

employment relationship falls within a period not longer than 12 months preceding the date of the employer's insolvency, and in the event of the court dismissing the bankruptcy petition because the employer's assets are not sufficient or are only sufficient to cover the costs of the proceedings and if the debtor's assets are encumbered with a mortgage, pledge, registered pledge, treasury pledge or maritime mortgage to such an extent, that the remaining assets are not sufficient to cover the costs of the proceedings, also for a period not longer than 4 months following the date of occurrence of insolvency.

In the event of the employer's actual cessation of business activity lasting longer than 2 months, the voivodeship marshal shall pay, at the employee's request, an advance payment towards the employee's unsatisfied claims by the employer, in the amount of the unsatisfied claims referred to above, but not higher than the amount of the minimum wage applicable on the date of payment of the advance payment.

The Government does not express its position on the possible acceptance of Article 25 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

The ECSR recalls that Article 25 of the Charter guarantees individuals the right to protection of their claims in the event of the insolvency of their employer.[296] States Parties having accepted this provision benefit from a margin of discretion as to the form of protection of workers' claims and so Article 25 does not require the existence of a specific guarantee institution.[297]

However, the protection afforded, whatever its form, must be adequate and effective, also in situations where the assets of an enterprise are insufficient to cover salaries owed to workers.[298] Guarantees must exist for workers that their claims will be satisfied in such cases.[299] The protection should also apply in situations where the employer's assets are recognised as insufficient to justify the opening of formal insolvency proceedings.[300]

States Parties may limit the protection of workers 'claims to a prescribed amount which shall be of a socially acceptable level, namely not less than three months wage under a privilege system and eight weeks under a guarantee system.[301] The workers 'claims covered should also include holiday pay due as a result of work performed during the year in which the insolvency or the termination of employment occurred.

Opinion of the ECSR

The ECSR takes note of the measures already in place to recognise the right of workers to the protection of their claims in the event of the insolvency of their employer. The protection includes both the privilege system and a guarantee institution. The protection applys also in situations where the employer's assets are recognised as insufficient to justify the opening of formal insolvency proceedings. Polish regulations limit the protection of workers 'claims to a prescribed amount which seems of a socially acceptable level, namely not less than three months wage under a privilege system and eight weeks under a guarantee system. Employees' claims must take precedence over other creditors.

296 Conclusions 2003, France
297 Conclusions 2003, France
298 Conclusions 2003, France
299 Conclusions 2012, Ireland
300 Conclusions 2012 and 2020, Albania
301 Conclusions 2012, Ireland

However, the Committee notes that no information has been submitted by the Government on whether employees' claims take precedence over other creditors in those cases when an enterprise closes down without formally being declared insolvent; whether workers' claims are ranked below mortgage obligations, foreclosure on property and bankruptcy costs; and what is the average duration of the period from which a claim is lodged until the worker is paid and what is the overall proportion of workers' claims which are satisfied.

In the light of the information provided and the requirements of the revised Charter's provision, the ECSR considers that **there are no major obstacles to the acceptance of Article 25 in the near future**.

Article 26§1 - The right to dignity at work

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations, to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work and to take all appropriate measures to protect workers from such conduct.

Appendix: It is understood that this article does not require that legislation be enacted by the Parties.

Situation in Poland

The Government indicates that basic labour law principles require employers to respect the dignity and personal rights of employees and to counteract all forms of discrimination, including gender-based discrimination such as sexual harassment. Sexual harassment is defined as any unacceptable behavior—physical, verbal, or non-verbal—of a sexual nature or related to gender, intended to or resulting in the violation of an employee's dignity or humiliation.

Employers are responsible for sexual harassment either when they commit it directly or when they fail to prevent it. Employees acting on behalf of or in a superior position to the employer may also be held liable.

While the Labour Code regulates the prevention of sexual harassment within professional relationships, it does not cover situations where an employee harasses another without an existing professional dependency or when the parties are employed by different employers. In such cases, liability is governed by the Civil Code and the Penal Code, and victims may seek legal protection under labour, civil, or criminal law.

To further protect victims, the Labour Code ensures that exercising rights related to breaches of equal treatment cannot lead to adverse treatment, such as termination of employment without notice. Additionally, employers are required to actively counteract discrimination and must provide employees with accessible information on equal treatment provisions, either in writing at the workplace or through another approved method.

The Government does not express its position on the possible acceptance of Article 26§1 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Sexual harassment is not necessarily a form of discrimination based on gender but always qualifies as a breach of equal treatment manifested mainly by an insistent preferential or

retaliatory attitude, directed towards one or more persons, or by an insistent attitude of other nature, which may undermine those persons' dignity or harm their career[302].

Irrespective of admitted or perceived grounds, harassment creating a hostile working environment shall be prohibited and repressed in the same way as acts of discrimination, independently from the fact that not all harassment behaviours are acts of discrimination, except when this is explicitly presumed by law.[303]

Article 26§1 requires States Parties to take appropriate preventive measures (information, awareness raising and prevention campaigns in the workplace or in relation to work) against sexual harassment.[304] In particular, they should inform workers about the nature of the behaviour in question and the available remedies.[305]

This protection must include the right to appeal to an independent body in the event of harassment, the right to obtain adequate compensation and the right not to be retaliated against for upholding these rights[306]

Under civil law, effective protection of employees requires a shift in the burden of proof, making it possible for a court to find in favour of the victim on the basis of sufficient prima facie evidence and the personal convic tion of the judge or judges.[307] The situation will not be in conformity with Article 26§1 of the Charter where there is no shift in the burden of proof in sexual harassment cases.[308]

Victims of sexual harassment must have effective judicial remedies to seek reparation for pecuniary and non-pecuniary damage.[309] These remedies must, in particular, allow for appropriate compensation of a sufficient amount to make good the victim's pecuniary and non-pecuniary damage and act as a deterrent to the employer.[310]

Opinion of the ECSR

The ECSR takes note of the measures already in place to promote awareness, information and prevention of sexual harassment in the workplace or in relation to work. The ECSR notes that, harassment creating a hostile working environment is prohibited and repressed in the same way as acts of discrimination, independently from the fact that not all harassment behaviours are acts of discrimination. Protection against sexual harassment includes the right to appeal to an independent body, the right to obtain adequate compensation and the right not to be retaliated against for upholding these rights. The shift in the burden of proof is guaranteed. Victims of sexual harassment have effective judicial remedies to seek reparation for pecuniary and non-pecuniary damage.

However, the ECSR notes the report does not provide information on awareness raising and prevention campaigns in the workplace or in relation to work.

In the light of the information provided and the requirements of the revised Charter's provision, the ECSR considers that **there are no obstacles to the acceptance of Article 26§1**.

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302 Conclusions 2003, Bulgaria; Conclusions 2005, Republic of Moldova
303 Conclusions 2014, Georgia
304 Conclusions 2018, Lithuania; Conclusions 2005, Republic of Moldova
305 Conclusions 2005, Lithuania; Conclusions 2003, Italy
306 Conclusions 2007, Statement of Interpretation on Article 26§2
307 Conclusions 2018, Azerbaijan; Conclusions 2014, Azerbaijan
308 Conclusions 2018, Azerbaijan
309 Conclusions 2018, Turkey; Conclusions 2005, Republic of Moldova
310 Conclusions 2018, Turkey; Conclusions 2007, Slovenia

Article 26§2 - The right to dignity at work

With a view to ensuring the effective exercise of the right of all workers to protection of their dignity at work, the Parties undertake, in consultation with employers' and workers' organisations to promote awareness, information and prevention of recurrent reprehensible or distinctly negative and offensive actions directed against individual workers in the workplace or in relation to work and to take all appro priate measures to protect workers from such conduct.

Appendix: It is understood that this article does not require that legislation be enacted by the Parties. It is understood that paragraph 2 does not cover sexual harassment.

Situation in Poland

The Government indicates that according to the Labour Code, mobbing refers to persistent, long-term actions or behaviors directed at an employee that lower their self-esteem, humiliate, ridicule, isolate, or exclude them from the workplace. Employers are responsible for mobbing in the workplace—whether they commit it directly or fail to prevent it by others.

Employers are obliged to counteract mobbing by taking diligent and effective measures. They may be released from liability if they can demonstrate, in court, that they took appropriate and objectively effective steps against mobbing.

The Labour Code does not regulate liability for mobbing committed by one employee against another when no formal dependency exists; such cases are governed by the Civil Code and the Penal Code.

Employees suffering health disorders due to mobbing may claim financial compensation from their employer. Those who resign because of mobbing are entitled to compensation of at least the minimum wage, as specified by separate provisions. If mobbing leads to dismissal, the affected employee may appeal the termination as unjustified or unlawful, seeking either recognition of the termination as ineffective, reinstatement with back pay, or compensation.

Preventive measures by the National Labour Inspectorate include distributing leaflets, brochures, and educational materials about legal regulations, victim rights, and available legal and psychological assistance. During personal and telephone duty hours, Inspectorate staff provide legal advice and promote training for employers and social partners on preventing mobbing and sexual harassment. In addition, the National Labour Inspectorate as well as the district labour inspectorares provide training, conferences and webinars on stress, discrimination, burnout, bullying and sexual harassment.

The Government also provides statistics on harassment complaints handled by the National Labour Inspectorate and compensation and redress procedures following psychological harassment resolved by the courts of first instance and second instance, respectively.

The Government does not express its position on the possible acceptance of Article 26§2 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 26§2 of the Charter establishes a right to protection of human dignity against harassment creating a hostile working environment related to a specific characteristic of a

person.[311] States Parties are required to take all necessary preventive and compensatory measures to protect individual workers against recurrent reprehensible or distinctly negative and offensive actions directed against them at the workplace or in relation to their work, since these acts consti*tute humiliating behaviour.*[312]

Irrespective of admitted or perceived grounds, harassment creating a hostile working environment characterized by the adoption towards one or more persons of persistent behaviours which may undermine their dignity or harm their career shall be prohibited and repressed in the same way *as acts of discrimination.*[313]

Harassment should be prohibited and repressed even when the harassing behavior does not amount to discrimination.[314] As far as awareness raising is concerned, the requirements are the same as under Article 26§1.[315]

It must be possible for employers to be held liable in case of harassment involving employees under their responsibility, or on premises under their responsibility, when a person not employed by them (independent contractor, self-employed worker, visitor, client, etc.) is the victim or the perpetrator.[316]

Under civil law, effective protection of employees requires a shift in the burden of proof, making it possible for a court to find in favour of the victim on the basis of sufficient prima facie evidence and the personal convic tion of the judge or judges.[317]

Under Article 26§2, victims of harassment must have effective judicial remedies to seek reparation for pecuni ary and non-pecuniary damage.[318] These remedies must, in particular, allow for appropriate compensation of a sufficient amount to make good the victim's pecuniary and non-pecuniary damage and act as a deterrent to the employer.[319]

Opinion of the ECSR

The ECSR takes note of the measures already in place to promote awareness, information and prevention of moral harassment in the workplace or in relation to work. However, in the light of the information provided, the ECSR considers that the situation in Poland requires adjustments to bring it in line with the requirements of Article 26§2.

First and foremost, legislative action is needed to provide legal basis for the shift in the burden of proof in all harassment cases – including the ones which fall out of the scope of harassment as a form of discrimination. What is more, it shall be possible for employers to be held liable in case of harassment involving employees under their responsibility, or on premises under their responsibility, when a person not employed by them (independent contractor, self-employed worker, visitor, client, etc.) is the victim or the perpetrator.

Additionally, the ECSR notes the absence of information on specific measures taken to raise the awareness about harassment in the workplace which may include public education programmes, campaigns, cooperation with NGO's and employers' organisations, provision of online sources of information on harassment, etc.

311 Conclusions 2003, Bulgaria
312 Conclusions 2003, Bulgaria
313 Conclusions 2007, Statement of Interpretation on Article 26§2
314 Conclusions 2007, Statement of Interpretation on Article 26§2
315 Conclusions 2018, Andorra; Conclusions 2003, Slovenia
316 Conclusions 2014, Finland
317 Conclusions 2007, Statement of Interpretation on Article 26§2
318 Conclusions 2014, Azerbaijan
319 Conclusions 2014, Azerbaijan

Therefore the ECSR considers that **obstacles remain with regard to the acceptance by Poland of Article 26§2 of the Charter**. It encourages Polish authorities to continue their efforts to establish the legal and practical basis for guaranteeing the right to dignity at work.

Article 27§1 - The right of workers with family responsibilities to equal opportunities and treatment

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake to take appropriate measures:

a. **to enable workers with family responsibilities to enter and remain in employment, as well as to reenter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;**
b. **to take account of their needs in terms of conditions of employment and social security;**
c. **to develop or promote services, public or private, in particular child day care services and other childcare arrangements.**

Situation in Poland

The Government indicates that according to the Labour Code, all workers must be treated equally in hiring, termination, working conditions, promotions, and access to training—without discrimination based on gender, age, or employment type.

Under the Act of 20 April 2004 on the promotion of employment and labour market institutions, unemployed individuals who left work to care for a child or dependent are eligible for a teleworking bonus and an activation benefit. Special measures—such as internships, vocational training, and public works—support women who did not return to work after childbirth and single parents with children under 18. Unemployed single parents may also receive childcare cost refunds for children up to age 7, covering up to half of their unemployment benefit for the first three months, with the refund period lasting up to six months or the duration of training. Advance payments for these costs are available upon request.

The Labour Code provides flexible working arrangements—such as flexible hours, individualised schedules, and remote work—to help workers taking care for children or other family members. Workers are entitled to 60 days of leave per year to care for a sick child (up to 14 years old) and 14 days for caring for another sick family member, with a care allowance provided under the Act of June 25, 1999.

Employees on parental leave can request a reduction in working hours (to no less than half-time) for up to 12 months. During this period, employers cannot terminate their contracts except in cases of bankruptcy or justified employee fault, and employees may work part-time with their previous or a different employer, as long as childcare responsibilities are maintained.

Breastfeeding workers are entitled to breaks during work: two half-hour breaks if breastfeeding one child, or two 45-minute breaks if breastfeeding more than one child. Employees working fewer than four hours are not eligible, and those working up to six hours receive one break. In balanced or continuous work systems, employees caring for a child under four must not work more than eight hours.

The Act of February 4, 2011, provides four forms of childcare for children up to age 3: nurseries, children's clubs, day care providers, and nannies. These facilities may be operated by communes, individuals, legal entities, or organisations, with their terms—including fees and conditions—specified in their statutes or, for commune-run facilities, in municipal resolutions.

The Government does not express its position on the possible acceptance of Article 27§1 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Under Article 27§1a of the Charter, States Parties should provide people with family responsibilities with equal opportunities in respect of entering, remaining and re-entering employment since these persons may face difficulties on the labour market due to their family responsibilities.[320] Therefore, measures need to be taken by States Parties to ensure that workers with family responsibilities are not discriminated against due to these responsibilities and to assist them to remain, enter and re-enter the labour market, in particular by means of vocational guidance, training and re-training.[321]

However, when the quality of standard employment services available to everyone is adequate, there is no need to provide extra services for people with family responsibilities.[322]

The aim of Article 27§1b is to take into account the needs of workers with family responsibilities in terms of conditions of employment and social security.[323] Measures need to be taken concerning the length and organisation of working time.[324] Furthermore, workers with family responsibilities should be allowed to work part-time or to return to full-time employment.[325] These measures should apply equally to men and women.[326] The type of measures to be taken cannot be defined unilaterally by the employer but should be provided by a binding text (legislation or collective agreement).[327] Periods of unemployment due to family responsibilities should be taken into account in the calculation of pension schemes or in the determination of pension rights.[328]

The aim of Article 27§1c is to develop or promote services, in particular child day care services and other childcare arrangements, that are available and accessible to workers with family responsibilities.[329] Preschool education should be free of charge and, if it is not, measures must be taken to make it financially accessible for vulnerable families.[330] Where a State has accepted Article 16, childcare arrangements are dealt with under that provision.[331] In any event, under Article 27§1 parents should be allowed to reduce or cease work because of the serious illness of a child.[332]

Opinion of the ECSR

[320] Conclusions 2005, Sweden
[321] Conclusions 2005, Estonia
[322] Conclusions 2003, Sweden
[323] Conclusions 2005, Statement of Interpretation on Article 27§1b; see e.g Conclusions 2005, Estonia
[324] Conclusions 2005, Statement of Interpretation on Article 27§1b; see e.g Conclusions 2005, Estonia
[325] Conclusions 2005, Statement of Interpretation on Article 27§1b; see e.g Conclusions 2005, Estonia
[326] Conclusions 2005, Lithuania
[327] Conclusions 2019, Belgium
[328] Conclusions 2003, Sweden
[329] Conclusions 2005, Statement of Interpretation on Article 27§1b; see e.g Conclusions 2005, Estonia
[330] Conclusions 2019, Armenia
[331] Conclusions 2003, Italy
[332] Conclusions 2003, Italy

In the light of the information provided and the requirements of the revised Charter's provision, the ECSR considers that **there are no obstacles to the acceptance of Article 27§1 in the near future**.

Article 27§2 - The right of workers with family responsibilities to equal opportunities and treatment

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice.

Situation in Poland

The Government indicates that after maternity leave, parents are entitled to take parental leave. For a single child, both parents together can take up to 41 weeks of leave (43 weeks for multiple births); for seriously ill children under the "For Life" program, up to 65 weeks (67 weeks for twins) may be taken. Within this period, each parent has a non-transferable portion of up to 9 weeks, limiting one parent's leave to 32 or 34 weeks (56 or 58 weeks for seriously ill children).

Parental leave is available regardless of whether the child's mother remains employed on the day of delivery. The maternity benefit during this leave is generally 70% of the allowance calculation basis, but if an application is submitted within 21 days after birth, it increases to 81.5%. In all cases, the worker-father receives 70% for his non-transferable 9-week portion.

Additionally, the Labour Code guarantees up to 36 months of parental leave for child care. Each parent or guardian is entitled to one exclusive month of this leave, which must be taken by the end of the calendar year in which the child turns 6, provided the employee has been employed for at least 6 months (including previous employment periods). Moreover, if a child has a certified disability requiring personal care, parental leave may extend up to the child's 18th birthday.

During the period from the application for parental leave until its end, the employer may not terminate the employment contract except under specific circumstances unrelated to the employee's performance. After parental leave, the employer is required to reinstate the employee in their previous or an equivalent position on terms no less favorable than if the leave had not been taken.

Generally unpaid, parental leave is supplemented by a childcare allowance of 400 PLN (≈95,67 Euro) per month, as provided by the Act on Family Benefits of 28 November 2003. The supplement, as well as the allowance, is due if the monthly income per person in the family does not exceed 674 PLN net (≈161,2 Euro), and in the case of a disabled child (a child holding a certificate of disability or a certificate of moderate or severe disability) - 764 PLN (≈182,73 Euro).

Furthemore, under the EU Work-life Balance Directive that entered into force in August 2019, the duration of the parental leave shall be at least 4 months, whereas two out of the four months shall be non-transferable between parents.

The Government does not express its position on the possible acceptance of Article 27§2 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 27§2 provides for the right to parental leave which is distinct from maternity leave.[333] (Maternity leave is addressed under Article 8 of the Charter).

Article 27§2 requires States Parties to provide the possibility for either parent to obtain parental leave, as an important element for the reconciliation of professional, private and family life. The duration and conditions of parental leave should be determined by States Parties.[334] Domestic law should entitle men and women to an individual right to parental leave on the grounds of the birth or adoption of a child.[335] With a view to promoting equal opportunities and equal treatment between men and women, the leave should, in principle, be provided on a non-transferable basis to each parent.[336]

The States Parties are under a positive obligation to encourage the use of parental leave by either parent.[337] Remuneration of parental leave plays a vital role in the take up of childcare leave, in particular for fathers or lone parents.[338] States Parties shall ensure that an employed parent is adequately compensated for their loss of earnings during the period of parental leave.[339] The modalities of compensation is within the margin of appreciation of the States Parties and may be either paid leave (continued payment of wages by the employer), a social security benefit, any alternative benefit from public funds or a combination of such compensations.[340] Regardless of the modalities of payment, the level must be adequate.[341] Unpaid parental leave is not in conformity with Article 27§2.[342]

Opinion of the ECSR

In the light of the information provided and the requirements of the revised Charter's provision, the ECSR considers that **there are no obstacles to the acceptance of Article 27§2**.

Article 27§3 - The right of workers with family responsibilities to equal opportunities and treatment

With a view to ensuring the exercise of the right to equality of opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment.

Situation in Poland

The Government indicates that during pregnancy, maternity, paternity, and parental leave—and from the moment a worker applies for any of these leaves—employers are prohibited from terminating the employment contract. Specifically, termination is banned for 14 days before

[333] Conclusions 2011, Armenia
[334] Conclusions 2011, Armenia
[335] Conclusions 2011, Armenia
[336] Conclusions 2011, Armenia
[337] Conclusions 2015, Statement of interpretation on Article 27§2
[338] Conclusions 2011, Armenia
[339] Conclusions 2015, Statement of interpretation on Article 27§2
[340] Conclusions 2015, Statement of interpretation on Article 27§2
[341] Conclusions 2015, Statement of interpretation on Article 27§2
[342] Conclusions 2019, Ireland, Malta

maternity leave, 21 days before parental leave, and 7 days before paternity leave, including during trial periods up to one month.

Employers may only dismiss employees during these protected periods if the employer is bankrupt or liquidating, or if there are valid reasons for immediate termination due to the employee's fault (with trade union approval). If termination occurs unjustly, the employee may seek reinstatement or compensation through the Labour Court. Dismissals based on family obligations are considered discriminatory, warranting compensation of at least the minimum wage.

For fixed-term contracts ended early, workers may receive compensation for the period until the contract would have ended—up to three months—unless reinstatement is deemed possible. Overall, these rules ensure robust protection for workers on family-related leave, providing clear recourse to either reinstatement or fair compensation.

The Government does not express its position on the possible acceptance of Article 27§3 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Family responsibilities must not constitute a valid ground for termination of employment. In this context, the notion of "family responsibilities" is to be understood as obligations in relation to dependent children as well as other members of the immediate family who need care and support (for instance elderly parents).[343]

The purpose of Article 27§3 is to prevent these obligations from restricting preparation for and access to working life, exercise of an occupation and career advancement for works with family responsibilities.[344] Workers dismissed on such illegal grounds must be afforded the same level of protection as that afforded in other cases of discriminatory dismissal under Article 1§2 of the Charter.[345] In particular, courts or other competent bodies should be able to order reinstatement of an employee unlawfully dismissed and/or to award a level of compensation that is sufficient both to deter the employer and proportionate the damage suffered by the victim.[346] Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive are proscribed.[347] If there is a ceiling on compensation for pecuniary damage, the victim must be able to seek unlimited compensation for non-pecuniary damage through other legal avenues (e.g. anti-discrimination legislation), and the courts competent for awarding compensation for pecuniary and non-pecuniary damage must decide within a reasonable time.[348]

Opinion of the ECSR

In the light of the information provided and the requirements of the revised Charter's provision, the ECSR considers that **there are no obstacles to the acceptance of Article 27§3**.

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

[343] Conclusions 2003, Statement of Interpretation on Article 27§3; see e.g Conclusions 2003, Bulgaria
[344] Conclusions 2003, Statement of Interpretation on Article 27§3; see e.g Conclusions 2003, Bulgaria
[345] Conclusions 2007, Finland
[346] Conclusions 2007, Finland
[347] Conclusions 2011, Statement of Interpretation on Articles 8§2 and 27§3
[348] Conclusions 2011, Statement of Interpretation on Articles 8§2 and 27§3, see also Confederazione Generale Italiana del Lavoro (CGIL) v. Italy , Complaint No.158/2017, decision on the merits of 11 September 2019, §96

With a view to ensuring the effective exercise of the right of workers' representatives to carry out their functions, the Parties undertake to ensure that, in the undertaking:

a. they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers' representatives within the undertaking;

b. they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial relation system of the country and the needs, size and capabilities of the undertaking concerned.

Appendix:

For the purpose of the application of this article, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.

Situation in Poland

The Government indicates that trade unions are the primary form of workers' representation under the Act of 23 May 1991 on trade unions. In state-owned enterprises, workers' participation in the management of that company is further ensured as per the Act of 25 September 1981 on the autonomy of the staff of a public company and representation on boards directors is ensured as per the Act of 30 August 1996 on the commercialisation and privatisation of public companies. These forms of representation operate alongside company trade unions.

In companies without a trade union, alternative representation exists, such as staff-elected representatives for financial issues, European Works Councils elected by the workers, and workers representatives for company pension agreements and social benefits.

For employers with at least 50 employees, the Act of 7 April 2006 establishes works councils for workers's consultation and information. Protected status is granted to union officials and members of Works Councils, European Works Councils, and special negotiating bodies. Employers cannot dismiss these representatives or change their terms to their detriment without the consent of the relevant union or Works Council during their term and for one year after.

Employee representatives can hold employers liable for breaches, using criminal, civil, or labour court remedies if unjustified dismissals occur. Employers are also required to provide premises and technical equipment for trade union activities as agreed.

Additionally, members of works councils are entitled to paid release from work for council duties that cannot be performed outside of working hours.

The Government does not express its position on the possible acceptance of Article 28 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 28 of the Charter guarantees the right of workers' representatives to protection in the undertaking and to certain facilities.[349] It complements Article 5, which recognises a similar right in respect of trade union representatives.[350] The term "workers' representatives" means persons who are recognised as such under national legislation or practice.[351]

Protection should cover the prohibition of dismissal on the ground of being a workers' representative and the protection against detriment in employment other than dismissal.[352]

The rights recognised in the Social Charter must take a practical and effective, rather than purely theoretical form.[353] To this end, the protection afforded to workers shall be extended for a reasonable period after the effective end of period of their office.[354] Situations where the protection of worker's representatives against dismissal is limited for the period of performance of their functions, until their mandate expire, are not in conformity with Article 28 of the Charter.[355] Nor are situations where the protection afforded to workers' representatives lasts for three months after the end of their mandate.[356]

The ECSR has found the situation to be in conformity with the requirements of Article 28 in countries where the protection is extended for one year after the end of mandate of workers' representatives[357] or where the protection granted to workers' representatives is extended for six months after the end of their mandate.[358] Remedies must be available to worker representatives who are dismissed unlawfully.[359] Where discrimination takes place, domestic law must make provision for compensation that is adequate and proportionate to the harm suffered by the victim.[360] The compensation must at least correspond to the wage that would have been payable between the date of the dismissal and the date of the court decision or reinstatement.[361]

States Parties shall ensure that workers' representatives are provided with appropriate facilities to enable them to perform their functions promptly and effectively, taking into account the industrial relations system of the country and the needs, size and capabilities of the enterprise concerned.[362]

Moreover, the participation in training courses on economic, social and union issues should not result in a loss of pay.[363] Training costs should not be borne by the workers' representatives.[364]

Opinion of the ECSR

The ECSR takes note of the measures already in place to recognise the right of workers' representatives to protection in the undertaking. The ECSR notes that protection covers the prohibition of dismissal on the ground of being a workers' representative and the protection

[349] Conclusions 2003, Bulgaria
[350] Conclusions 2003, Bulgaria
[351] Conclusions 2003, Bulgaria
[352] Conclusions 2018, Russian Federation
[353] Conclusions 2010, Statement of Interpretation on Article 28, citing International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §59
[354] Conclusions 2010, Statement of Interpretation on Article 28
[355] Conclusions 2018, Armenia
[356] Conclusions 2018, Austria
[357] Conclusions 2018, Austria, citing Conclusions 2010, Estonia, and Conclusions 2010, Slovenia
[358] Conclusions 2018, Austria, citing Conclusions 2010, Bulgaria
[359] Conclusions 2010, Norway
[360] Conclusions 2010, Bulgaria
[361] Conclusions 2007, Bulgaria
[362] Conclusions 2010, Statement of Interpretation on Article 28
[363] Conclusions 2010, Statement of Interpretation on Article 28
[364] Conclusions 2010, Statement of Interpretation on Article 28

against detriment in employment other than dismissal. In most cases, the protection extends for a period beyond the term of office. Remedies are available to allow worker representatives to contest their dismissal.

However, the ECSR notes that no information has been submitted by the Government on whether the protection afforded to worker representatives extends for a period beyond the term of office in accordance with the Act of 7 April 2006 on informing employees and conducting consultations with them.

In the light of the information provided and the requirements of the revised Charter's provision, the ECSR considers that **there are no obstacles to the acceptance of Article 28**.

Article 29 - The right to information and consultation in collective redundancy procedures

With a view to ensuring the effective exercise of the right of workers to be informed and consulted in situations of collective redundancies, the Parties undertake to ensure that employers shall inform and consult workers' representatives, in good time prior to such collective redundancies, on ways and means of avoiding collective redundancies or limiting their occurrence and mitigating their consequences, for example accompanying social measures aimed, in particular, at aid for the redeployment or retraining of the workers concerned.

Appendix:
For the purpose of the application of this article, the term "workers' representatives" means persons who are recognised as such under national legislation or practice.

Situation in Poland

The Government indicates that the definition of collective dismissal is included in the Act of 13 March 2003 on special principles for terminating employment relationships with workers for reasons not related to them.

A collective dismissal occurs when an employer employing at least 20 workers terminates employment relationships for reasons not related to workers, by notice, as well as by agreement of the parties, if within 30 days the dismissal covers at least:

- 10 workers, if the employer employs fewer than 100 workers,
- 10% of workers, if the employer employs at least 100 but less than 300 workers,
- 30 workers, if the employer employs at least 300 or more workers. In order for a layoff to be considered collective, the minimum number of employees with whom employment relationships are terminated at the employer's initiative as part of a collective layoff is 5.

The Act of 13 March 2003 on special principles for terminating employment relationships with employees for reasons not attributable to employees requires the employer to undertake information and consultation activities before carrying out a collective layoff.

The employer is obliged to consult the intention to carry out a collective layoff with:

- the company trade unions operating at that employer,
- the workers' representatives elected in the manner adopted by the given employer - in the absence of company trade unions.

A breach by the employer of the consultation and information procedure – described in details in the Government report - preceding the collective layoff constitutes a breach of the provisions of labour law. In such a situation, the employee is entitled to claims provided for in the Labour Code, which are available in the event of unlawful termination of the employment contract. For

example, a breach of this procedure when terminating contracts for an indefinite period gives rise to a claim for compensation, reinstatement to work or recognition of the ineffectiveness of the notice.

If there are no company trade unions operating at a given employer, the rules of procedure in matters concerning employees covered by the intended collective dismissal are established by the employer in the regulations, after consultation with employee representatives elected in the manner adopted by the given employer. Consultations are not binding. The employer, after concluding an agreement (or establishing regulations), shall notify in writing the relevant district labour office.

The Government does not express its position on the possible acceptance of Article 29 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Under Article 29, workers' representatives have the right to be informed and consulted in good time by employers planning to make collective redundancies.[365]

Under Article 29 the collective redundancies referred to are redundancies affecting several workers within a period of time set by law and decided for reasons which have nothing to do with individual workers, but correspond to a reduction or change in the firm's activity. [366]

Domestic law should ensure that employees may appoint representatives even when they are not otherwise represented in the context of a particular workplace by a trade union or other representative body.[367] Such representatives should represent all employees who may be potentially subject to collective redundancies and should not suffer any negative consequences as a consequence of their activities in this regard.[368]

Under Article 29, consultation procedures must take place in good time, before the redundancies, in other words as soon as the employer contemplates making collective redundancies. Article 29 requires that the States Parties establish an information and consultation procedure which should precede the process of collective redundancies. Its provisions are directed – on the one hand – towards ensuring that workers are made aware of reasons and scale of planned redundancies, and – on the other hand – towards ensuring that the position of workers is taken into account when their employer is planning collective redundancies, in particular as regards the scope, mode and manner of such redundancies and the extent to which their consequences can be avoided, limited and/or mitigated.[369]

Consultation rights must be accompanied by guarantees that they can be exercised in practice.[370] Where employers fail to fulfil their obligations, there must be at least some possibility of recourse to administrative or judicial proceedings before the redundancies are made to ensure that they are not put into effect before the consultation requirement is met.[371] Provision must be made for sanctions after the event, and these must be effective, i.e.

[365] Conclusions 2003, Statement of Interpretation on Article 29
[366] Conclusions 2003, Statement of Interpretation on Article 29; Conclusions 2018, Latvia
[367] Conclusions 2014, Statement of Interpretation on Article 29
[368] Conclusions 2014, Statement of Interpretation on Article 29
[369] Conclusions 2014, Statement of Interpretation on Article 29
[370] Conclusions 2014, Georgia
[371] Conclusions 2003 and 2007, Sweden

sufficiently deterrent for employers.[372] The right of individual employees to contest the lawfulness of their dismissal is examined under Article 24 of the Charter.[373]

Opinion of the ECSR

The ECSR takes note of the measures already in place to recognise workers' representatives right to be informed and consulted in good time by employers planning to make collective redundancies. The ECSR notes that Polish law ensures that employees may appoint representatives even when they are not otherwise represented in the context of a particular workplace by a trade union or other representative body. The consultation procedures take place in good time, before the redundancies and are strictly regulated.

However, the ECSR reminds, that where employers fail to fulfil their obligations, there must be at least some possibility of recourse to administrative or judicial proceedings before the redundancies are made to ensure that they are not put into effect before the consultation requirement is met.

In the light of the information provided and the requirements of the revised Charter's provision, the ECSR considers that **there are no obstacles to the acceptance of Article 29 in the near future**.

Article 30 - The right to be protected against poverty and social exclusion

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;

b. to review these measures with a view to their adaptation if necessary.

Situation in Poland

The Government reports that Poland's at-risk-of-poverty or social exclusion rate (AROPE) dropped from 45.3% in 2005 to 22.5% in 2015, due to improvements in GDP, employment, and incomes. In subsequent years, AROPE further decreased to 18.7% in 2017, 17.9% in 2019, 16.8% in 2021, and 15.9% in 2022.

Extreme poverty is measured based on expenditure rather than household income. Despite a significant reduction in household spending capacity during 2020 and part of 2021 due to COVID-19 restrictions, the extreme poverty rate in 2021 was 6.8%—2.1 percentage points lower than in 2011. In 2022, even amid a global economic crisis triggered by Russian aggression in Ukraine, the extreme poverty rate remained stable compared to the previous year.

Efforts to combat poverty and social exclusion are guided by the "National Programme for Combating Poverty and Social Exclusion 2021–2027 (with a 2030 perspective)" and the "Strategy for the Development of Social Services (with a 2030 public policy and a 2035 perspective)." These initiatives aim to reduce poverty and improve access to services that address demographic challenges. Implementation is coordinated by the government and local authorities, with oversight by the minister responsible for social security and active involvement from civil society organisations and social entities.

[372] Conclusions 2003 Statement of Interpretation on Article 29
[373] Conclusions 2003, Statement of interpretation on Article 30, see e.g. Conclusions 2003, France

Non-governmental organisations contribute throughout the process—from drafting policies to consultation, implementation, and monitoring. Their work is financed through state and local government budgets, private funds, and European funds, particularly the European Social Fund under national and regional operational programs.

Local authorities are required by the Act of 12 March 2004 on Social Assistance to develop strategies addressing social problems, including social assistance. The Act of 5 August 2022 on the Social Economy further expands these strategies by assessing the capacity of social economy entities to provide social services and by specifying the services and public tasks they are to perform.

Additionally, the Act of 20 April 2004 on the Promotion of Employment and Labour Market Institutions provides targeted services for vulnerable groups. These services include the right to receive a job offer or activation within four months of registration, employment cost reductions, referrals to internships, and scholarships for education. Moreover, career counselling is offered as a key support service for marginalised, socially excluded, or impoverished individuals.

The Government does not express its position on the possible acceptance of Article 30 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, Article 30 requires State parties to adopt an overall and coordinated approach, which shall consist of an analytical framework[374], a set of priorities and corresponding measures to prevent and remove obstacles to access to social rights, in particular employment, housing, training, education, culture and social and medical assistance.[375]

The comprehensive and coordinated approach must link and integrate policies in a coherent way[376], going beyond a purely sectoral or target group approach and coordinating mechanisms, including at the level of delivery of assistance and services to those living in or at risk of poverty.[377] Adequate resources are one of the main elements of the overall strategy to combat social exclusion and poverty, and should therefore be allocated to achieve the objectives of the strategy.[378] The measures taken should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country.[379] They should strengthen access to social rights, their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights and where necessary specifically target the most vulnerable groups and regions. [380]

Article 30 of the Charter requires the existence of monitoring mechanisms for reviewing and adapting the efforts in all areas and sectors, at all levels, national, regional, local, to combat

[374] Conclusions 2003, Statement of interpretation on Article 30, see e.g. Conclusions 2003, France
[375] Conclusions 2013, Statement of interpretation on Article 30
[376] Statement on Covid-19 and social rights adopted on 24 March 2021
[377] Statement on Covid-19 and social rights adopted on 24 March 2021
[378] Conclusions 2005, Slovenia
[379] Conclusions 2003, Statement of interpretation on Article 30, see e.g. Conclusions 2003, France
[380] Conclusions 2003, Statement of interpretation on Article 30, see e.g. Conclusions 2003, France

poverty and social exclusion; mechanisms which should involve all relevant actors, including civil society and persons directly affected by poverty and exclusion.[381]

The ECSR has interpreted the scope of Article 30 as relating both to protection against poverty (understood as involving situations of social precarity) and protection against social exclusion (understood as involving obstacles to inclusion and citizen participation), in an autonomous manner or in combination with other connecting provisions of the Charter.[382] These two dimensions of Article 30, poverty and social exclusion, constitute an expression of the principle of indivisibility[383] which is also contained in other provisions of the Charter (for example, enjoyment of social assistance without suffering from a diminution of political or social rights, Article 13).[384]

Opinion of the ECSR

As regards the situation in Poland, the ECSR notes the progress made last years to reduce poverty and social exclusion, however in the light of the information provided, the ECSR considers that the situation in Poland requires adjustments to bring it in line with the requirements of Article 30. It encourages the Polish authorities to continue their efforts to adopt an adequate overall and coordinated approach to combat poverty and social exclusion.

The ECSR reminds that Article 30 irequires that States Parties must have a strategy aimed at reducing poverty and social exclusion. It must elaborate and implement a wide range of measures and use a coordinated approach to promote effective access to certain societal issue, including living conditions, employment, housing, social assistance, health, etc. The efficacy of the approach must be regularly reviewed and adapted or changed if necessary. The ECSR requires reliable statistics and significant information to assess the situation under this article and recalls that the Government provides already similar information to Eurostat.

The ECSR has not been provided sufficient information on:

- details about the analytical framework, the priorities and corresponding measures to prevent and remove obstacles to access to social rights;
- what specific efforts are taken to measure and combat poverty and social exclusion;
- how the Government coordinates the efforts in the various policy fields in order to achieve the “overall and coordinated approach” required under Article 30 of the revised Charter and thus addressing the multidimensional nature of poverty and social exclusion. The report only states that the coordinators of the implementation of the activities are government and local government administration units, however there is no information on the mechanisms and ways of coordination;
- the ways in which civil society and persons affected by poverty and social exclusion are involved in the monitoring mechanisms. The report only states that monitoring of the program is carried out with the participation of all stakeholders, especially civil society organisations and social entities involved in the implementation of the program and that the entire implementation of the program is monitored by the minister responsible for social security, however there is no detailed information on this issue;
- whether minorities are encouraged to participate in society and whether they are represented in the general culture, media or the different levels of government;
- which definitions of poverty and social exclusion are adopted, as well as which measuring methodologies and data are applied.

[381] Conclusions 2003, Statement of interpretation on Article 30, see e.g. Conclusions 2003, France
[382] Conclusions 2013, Statement of interpretation on Article 30
[383] Conclusions 2013, Statement of interpretation on Article 30
[384] Conclusions 2013, Statement of interpretation on Article 30

Therefore the ECSR considers that **obstacles remain with regard to the acceptance by Poland of Article 30 of the Charter**.

Article 31§§1–3 – The right to housing: Adequate housing, Reduction of homelessness, Affordable housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:
1. to promote access to housing of an adequate standard;
2. to prevent and reduce homelessness with a view to its gradual elimination;
3. to make the price of housing accessible to those without adequate resources.

Situation in Poland

Article 75, section 1 of the Constitution states that public authorities shall pursue a policy that supports meeting the housing needs of citizens, in particular counteracting homelessness, supporting the development of social housing and supporting citizens' actions aimed at obtaining their own housing. The constitutional norm is addressed to public authorities and the objectives of these authorities' activities indicated therein are programmatic norms; it cannot constitute the basis for individual claims.

On 27 September 2016, the Council of Ministers adopted the National Housing Programme. It defines the directions of the state's housing policy in the perspective of 2030 and consists of a diagnostic part, which indicates the basic problems of housing and an instrumental part, providing proposals for regulatory, organisational and financial actions aimed at implementing the specific housing policy objectives specified in the programme.

The basic objectives of the programme – described in the Government report in details - include:

- Objective 1. Increasing access to housing for people whose income currently prevents them from purchasing or renting a flat on commercial terms. Indicator: by 2030, the number of flats per 1,000 residents should reach a level that is within the current European Union average (an increase from the current level of 363 to 435 flats per 1,000 people). In order to achieve this objective, taking into account the need to withdraw part of the housing stock from use, 2.5 million flats should be built on market principles and with state aid by 2030.

- Objective 2. Increasing the possibilities of meeting the basic housing needs of people at risk of social exclusion due to low income or a particularly difficult life situation. Indicator: by 2030, local governments should be able to meet the housing needs of all households currently waiting to rent a flat from the commune.

- Objective 3. Improving the housing conditions of society, the technical condition of housing resources and increasing energy efficiency. Metric: by 2030, the number of people living in substandard conditions (poor technical condition of the building, lack of basic technical installations, overcrowding) should decrease from 5.3 million to 3.3 million. This means that the standard of 700 thousand apartments should be improved through thermal modernization, renovations, providing basic technical installations and reducing the number of people per apartment.

An amount of 495 million PLN (≈118,38 million Euro) was spent on housing construction-related activities from the state budget for 2021.

In order to ensure access to housing for families raising disabled children, the Act of 21 June 2001 on the protection of tenants' rights, the housing resources of the commune and on

amending the Civil Code provides for the obligation of the commune to designate premises for disabled persons. The commune is obliged to regulate in a resolution on the principles of renting premises included in the housing resources of the commune the conditions that the premises designated for disabled persons must meet, taking into account the needs resulting from the type of disability.

The decision to refuse qualification and to place on the list of persons waiting to conclude a municipal premises lease agreement or a social premises lease agreement, after determining that the applicant does not meet the conditions specified in the act and the resolution of the municipal council, may be appealed to the administrative court. The requirements contained in the act, as well as the financial situation of local government units, affect the ability of municipalities to fulfill the obligation imposed on them by law to meet housing needs. Due to the limited number of premises, the selection of persons who have priority in concluding such an agreement is important. The selection is made in accordance with the principles of renting municipal premises, adopted in the resolution of the municipal council. This resolution, as an act of local law established by the municipality, is subject to control on the principles and in the manner provided for in the act of 8 March 1990 on local government. According to this Act, anyone whose legal interest or right has been violated by a resolution or order adopted by a municipal body may, after an ineffective call to eliminate the violation, appeal against the resolution or order to an administrative court.

In 2017, 169.47 million PLN (≈40,5 million Euro) was allocated in the state budget to supplement the Subsidy Fund for financial support of social and municipal housing for the construction of 2,892 apartments and 13 places in the intervention resources. In 2019, funds from the Subsidy Fund in previous years were used, within these funds the construction of 1,335 apartments and 54 places in the intervention resources was planned, in 2021, 195.23 million PLN (≈46,7 million Euro) was allocated in the state budget to supplement the Subsidy Fund for financial support of social and municipal housing from the state budget and additionally from funds from the free funds of the Government Housing Development Fund, within these funds the construction of 8,276 apartments and 74 places in the intervention resources was planned. In 2022, the Subsidy Fund was supplemented from the state budget with the amount of 731.64 million PLN (≈174,98 million Euro). Additionally, the Subsidy Fund was supplemented with extra-budgetary funds, within the framework of which it was planned to build 4,382 apartments and 185 places in the intervention resource.

The Act of 21 June 2001 on the protection of tenants' rights, the municipal housing stock and amending the Civil Code does not specify requirements for premises that are to serve the tenant to meet their housing needs, except for the requirements specified in the Act for premises provided under social lease and replacement premises. The premises provided under social lease must be suitable for habitation (equipment and technical condition), the area of rooms per member of the tenant's household cannot be less than 5 m2, and in the case of a single-person household 10 m2, although the premises may have a lower standard. Replacement premises are premises located in the same town as the previous premises, equipped with at least the same technical devices as the previously used premises, with the area of rooms the same as in the previously used premises; this condition is considered to be met if there is 10 m2 of total room area per household member, and in the case of a single-person household - 20 m2 of this area.

Foreigners – citizens of other states that are parties to the Charter who apply for the rental of municipal apartments do not have to meet any additional conditions other than those specified in the resolution of the council of a given municipality on the principles of renting premises that are part of the housing resources of that municipality.

According to the Act of 12 March 2004 on social assistance, facilities for the homeless may accommodate people whose health condition does not threaten the health and life of other

people staying in the facility. These facilities may not accommodate people with infectious diseases requiring isolation. A sick person should be referred to hospital.

People under the influence of alcohol or other psychoactive substances may not stay in a shelter or shelter. People in such a state may be provided with temporary shelter in the form of a warming room. People under the influence of alcohol may stay in a shelter or shelter only in particularly justified situations. The legislator has not specified what situations are considered particularly justified, but in practice it may be, for example, the occurrence of severe frosts, during which the life and health of people in need of shelter are at risk.

The Act of 21 June 2001 on the protection of tenants' rights, the housing resources of the commune and the amendment of the Civil Code introduced mechanisms limiting rent increases and other fees related to the use of residential premises, which protects the poorest people from losing their housing. This consists of: – applying rent reductions for apartments in the public housing resources (municipal, State Treasury) for people and families who need it due to their poverty, granted, at the request of the interested parties, for 12 months, with the possibility of extension, if justified by the income situation of the household, – renting apartments by communes from other owners and subletting them to low-income families, for a rent that they can afford to pay, which should make it easier for communes to better fulfill the tasks imposed on them regarding meeting the housing needs of the self-government community.

Another form of preventing the loss of housing is co-financing the costs of maintaining the apartment. This is ensured by the system of housing allowances paid by communes, addressed to the poorest households. The system is regulated by the Act of 21 June 2001 on housing benefits. Its purpose is to provide assistance to people in a difficult financial situation in paying for the rent for their apartment. The provisions of the Act specify the conditions for receiving housing benefits.

When it comes to access to apartments for families, including single-parent and large families, the Civil Code defines the circle of persons close to the tenant who are entitled to enter into the tenancy of the residential premises after the tenant's death. In the event of the death of the tenant of the residential premises, the following persons enter into the tenancy of the premises: a spouse who is not a co-tenant of the premises, children of the tenant and his spouse, other persons towards whom the tenant was obliged to provide maintenance, and a person who was actually in cohabitation with the tenant.

The Government does not express its position on the possible acceptance of Article 31§§1-3 at this stage. (see for detailed information the First National Report on non-accepted provisions of the Charter by Poland, 2024)

ECSR interpretation (DIGEST)

Article 31§1

Under Article 31§1 of the Charter, States Parties shall guarantee to everyone the right to housing and shall promote access to adequate housing.[385] States must take the legal and practical measures which are necessary and adequate for the effective protection of the right in question.[386] States enjoy a margin of appreciation in determining the steps to be taken to ensure compliance with the Charter, in particular as regards the balance to be struck between

[385] European Roma and Travellers Forum (ERTF) v. France, Complaint No. 64/2011, decision on the merits of 24 January 2012, §95
[386] European Roma and Travellers Forum (ERTF) v. France, Complaint No. 64/2011, decision on the merits of 24 January 2012, §95

the general interest and the interest of a specific group and the choices which must be made in terms of priorities and resources.[387]
States Parties must guarantee to everyone the right to adequate housing.[388] They should promote access to housing in particular to different groups of vulnerable persons, such as low-income persons, unemployed persons, single parent households, young persons, persons with disabilities including those with mental health problems.[389]

Adequate housing

The notion of adequate housing must be defined in law. "Adequate housing" means:

1. a dwelling which is safe from a sanitary and health point of view, i.e. that possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity, etc and where specific dangers such as the presence of lead or asbestos are under control;[390]
2. a dwelling which is not over-crowded, that the size of the dwelling must be suitable in light of the number of persons and the composition of the household in residence;[391]
3. a dwelling with secure tenure supported by the law. This issue is covered by Article 31§2.[392]

The definition of adequate housing must be applied not only to new constructions, but also gradually to the existing housing stock.[393] It must also be applied to housing available for rent as well as to housing owner occupied housing.[394]

Positive measures in the field of housing must be adopted in respect of vulnerable persons, paying particular attention to the situation of Roma and Travellers. As a result of their history, the Roma have become a specific type of disadvantaged group and vulnerable minority.[395]

They, therefore, require special protection.[396] Special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases.[397]

The failure to provide a sufficient number of halting sites for Travellers as well as the poor living conditions and operational failures on such sites have led to findings of non-conformity under this provision.[398]

Likewise, housing policies which have resulted in the spatial and social segregation of Roma (poorly built housing, on the outskirts of towns, segregated from the rest of the population), have also led to breaches of the Charter.[399]

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[387] European Roma and Travellers Forum (ERTF) v. France, Complaint No. 64/2011, decision on the merits of 24 January 2012, §95
[388] Conclusions 2003, France
[389] Conclusions 2003, Italy
[390] Conclusions 2003, France
[391] Conclusions 2003, France
[392] Conclusions 2003, France
[393] Conclusions 2003, France
[394] Conclusions 2003, France
[395] Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40
[396] Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40
[397] Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 39-40
[398] European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, §§ 38, 39, 49; Conclusions 2019, France
[399] European Roma Rights Centre (ERRC) v. Portugal, Complaint No. 61/2010, decision on the merits of 30 June 2011, §48

The fact that some refugee and asylum-seeking unaccompanied children may remain for lengthy periods of time in temporary accommodation facilities (emergency hotels and Safe zones) does not satisfy the requirements of long-term accommodation suited to their specific circumstances, needs and extreme vulnerability and violates Article 31§1.[400] These facilities do not offer the quality standards necessary for the long-term accommodation of unaccompanied children.[401]

Effectiveness

It is incumbent on the public authorities to ensure that housing is adequate through different measures such as, in particular, an inventory of the housing stock, injunctions against owners who disregard obligations, urban development rules and maintenance obligations for landlords.[402] States Parties are expected to demonstrate how the adequacy of the existing housing stock (whether rented or not, privately or publicly owned) is checked, whether regular inspections are carried out and what follow-up is given to decisions finding that a dwelling does not comply with the relevant regulation.[403] Public authorities must also limit against the interruption of essential services such as water, electricity and telephone.[404]

Even if under domestic law, local or regional authorities, trade unions or professional organisations are responsible for exercising a particular function, States Parties to the Charter are responsible, in terms of their international obligations to ensure that such responsibilities are properly exercised.[405] Thus, ultimate responsibility for policy implementation, involving at a minimum supervision and regulation of local action, lies with the Government which must be able to show that both local authorities and itself have taken practical steps to ensure that local action is effective.[406]

Legal protection

The effectiveness of the right to adequate housing requires its legal protection through adequate procedural safeguards. Occupiers must have access to affordable and impartial judicial or other remedies.[407] Any appeal procedure must be effective.[408]

Article 31§2

Definition

Homeless persons are those persons who legally do not have at their disposal a dwelling or other form of adequate housing in the terms of Article 31§1.[409]

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[400] International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021, §145
[401] International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021, §145
[402] Conclusions 2003, France
[403] Conclusions 2019, Turkey, Ukraine
[404] Conclusions 2003, France
[405] European Roma Rights Centre (ERRC) v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005, §26, citing European Roma Rights Centre (ERRC) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §29
[406] European Roma Rights Centre (ERRC) v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005, §26; European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007, §79
[407] Conclusions 2003, France
[408] Conclusions 2015, Austria, Article 16
[409] Conclusions 2003, Italy; Conference of European Churches (CEC) v. the Netherlands, Complaint No. 90/2013, decision on the merits of 1 July 2014, §135

Article 31§2 obliges States Parties to gradually reduce homelessness with a view to its elimination.[410] Reducing homelessness implies the introduction of measures such as provision of immediate shelter and care for the homeless and measures to help such people overcome their difficulties and prevent a return to homelessness.[411]

Preventing homelessness

States Parties must take action to prevent categories of vulnerable people from becoming homeless. This requires States Parties to introduce a housing policy for all disadvantaged groups of people to ensure access to social housing and housing allowances. (cf. Article 31§3).[412]

Though State authorities enjoy a wide margin of discretion in measures to be taken concerning town planning, they must strike a balance between the general interest and the fundamental rights of the individuals, in particular the right to housing and its corollary of ensuring individuals do not become homeless.[413]

Protection from evictions

Forced eviction can be understood to cover situations involving deprivation of housing which a person occupied due to insolvency or wrongful occupation.[414] States Parties must set up procedural safeguards to limit the risk of eviction.[415] Illegal occupation of a site or dwelling may justify the eviction of the illegal occupants.[416] However, the criteria of illegal occupation must not be unduly wide, and evictions should be governed by rules of procedure sufficiently protective of the rights of the persons concerned and should be carried out according to these rules.[417]

Legal protection for persons threatened by eviction must include, in particular, an obligation to consult the parties affected in order to find alternative solutions to eviction and the obligation to fix a reasonable notice period before eviction.[418] A notice period of one month in case of eviction due to insolvency or wrongful occupation is not reasonable.[419]

When evictions do take place, they must be carried out under conditions that respect the dignity of the persons concerned.[420] The law must prohibit evictions carried out at night or during the winter period.[421] When an eviction is justified by the public interest, authorities must adopt measures to re-house or financially assist the persons concerned.[422]

Domestic law must provide legal remedies and offer legal aid to those who are in need of seeking redress from the courts. Compensation for illegal evictions must also be provided.[423]

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410 Conclusions 2003, Sweden
411 Conclusions 2003, Sweden
412 Conclusions 2003, Sweden; Conclusions 2005, Lithuania; Conference of European Churches (CEC) v. the Netherlands, Complaint No. 90/2013, decision on the merits of 1 July 2014, §136
413 Conclusions 2007, Italy
414 Conclusions 2003, Sweden; Conclusions 2019, Ukraine
415 Conclusions 2005, Lithuania
416 European Roma Rights Centre (ERRC) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §51
417 European Roma Rights Centre (ERRC) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §51
418 Conclusions 2003, Sweden
419 Conclusions 2019, Ukraine
420 Conclusions 2003, Sweden
421 Conclusions 2003, Sweden
422 Conclusions 2003, Sweden
423 Conclusions 2003, Sweden

Right to shelter

According to Article 31§2, homeless persons must be offered shelter as an emergency solution.[424] To ensure that the dignity of the persons sheltered is respected, shelters must meet health, safety and hygiene standards and, in particular, be equipped with basic amenities such as access to clean water and heating and sufficient lighting.[425] Another basic requirement is the security of the immediate surroundings.[426] Nevertheless, temporary housing need not be subject to the same requirements of privacy, family life and suitability as are required from more permanent forms of standard housing, once the minimum requirements are met.[427]

States Parties shall foresee sufficient places in emergency shelters[428] and the conditions in the shelters should be such as to enable living in keeping with human dignity.[429]

The temporary supply of shelter, however adequate, cannot be considered satisfactory.[430] Individuals who are homeless should be provided with adequate housing within a reasonable period.[431] In addition, measures should be taken to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness.[432]

The right to shelter should be adequately guaranteed for migrants, including unaccompanied migrant children, and asylum-seekers.[433] States Parties are required to provide adequate shelter to children unlawfully present in their territory for as long as they are within their jurisdiction.[434] As the scope of Articles 31§2 and 17 overlap to a large extent, the ECSR assesses the issue of the right to a shelter of unaccompanied foreign minors under the scope of Article 31§2 when States Parties have accepted both provisions.[435] The housing of people in reception camps and temporary shelters which do not satisfy the standards of human dignity is in violation of the aforementioned requirements.[436] States should develop detailed guidelines on standards of reception facilities, assuring adequate space and privacy for children and their families.[437]

The exceptional nature of the situation resulting from an increasing influx of migrants and refugees and the difficulties for a State in managing the situation at its borders cannot absolve that State of its obligations under Article 31§2 of the Charter to provide shelter to migrant and

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[424] Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, §46
[425] Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, §62
[426] Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, §62
[427] Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, §62
[428] European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No 39/2006, decision on the merits of 5 December 2007, §107
[429] European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No 39/2006, decision on the merits of 5 December 2007, §§ 108-109
[430] European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No 39/2006, decision on the merits of 5 December 2007, §106
[431] European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No 39/2006, decision on the merits of 5 December 2007, §106
[432] Conclusions 2003, Italy
[433] Conclusions 2019, Greece
[434] International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021, §117
[435] European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France, Complaint No. 114/2015, decision on the merits of 24 January 2018, §173
[436] Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, §62
[437] International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021, §121

refugee children, in view of their specific needs and extreme vulnerability, or otherwise limit or dilute its responsibility under the Charter.[438]

The ECSR considers that eviction from shelters without the provision of alternative accommodation must be prohibited.[439]
Eviction from shelter of persons irregularly present within the territory of a State Party should be prohibited as it would place the persons concerned, particularly children, in a situation of extreme helplessness, which is contrary to the respect for their human dignity.[440]

States Parties are not obliged to provide alternative accommodation in the form of permanent housing within the meaning of Article 31§1 for migrants in an irregular situation.[441]

Article 31§3

An adequate supply of affordable housing must be ensured for persons with limited resources.[442]

Social housing

Housing is affordable if the household can afford to pay initial costs (deposit, advance rent), current rent and/or other housing-related costs (e.g. utility, maintenance and management charges) on a long-term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located.[443] In order to establish that measures are being taken to make the price of housing accessible to those without adequate resources, States Parties to the Charter must show that the affordability ratio of the poorest applicants for housing is compatible with their level of income.[444]

States Parties must:
- adopt appropriate measures for the provision of housing, in particular social housing.[445] Social housing should target, in particular, the most disadvantaged;[446]
- adopt measures to ensure that waiting periods for the allocation of housing are not excessive;[447] judicial or other remedies must be available when waiting periods are excessive;[448]

All the rights thus provided must be guaranteed without discrimination, in particular as in respect of Roma or Travellers wishing to live in mobile homes.[449]

Housing benefits

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[438] International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece, Complaint No. 173/2018, decision on the merits of 26 January 2021, §133
[439] Conclusions 2015, Statement of Interpretation on Article 31§2
[440] European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §110
[441] European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 2 July 2014, §60
[442] Conclusions 2003, Sweden
[443] Conclusions 2003, Sweden
[444] FEANTSA v. Slovenia, Complaint No. 53/2008, decision on the merits of 8 September 2009, §72.
[445] Conclusions 2003, Sweden
[446] International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 98-100
[447] International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §131
[448] International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §131
[449] International Movement ATD Fourth World v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 149155; Conclusions 2019, France

Under Article 31§3, States Parties are required to adopt comprehensive housing benefit systems to protect low-income and disadvantaged sections of the population.[450] Housing benefit is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.[451]
The right to affordable housing must not be subject to any kind of discrimination on any grounds mentioned by Article E of the Charter.[452]

Opinion of the ECSR

As regards the situation in Poland, the ECSR notes the progress made last years in legal and practical measures which have been taken to achieve the goal of the effective protection of the right to housing, however in the light of the information provided, the ECSR considers that the situation in Poland requires adjustments to bring it in line with the requirements of Article 31§§1-3. It encourages the Polish authorities to continue their efforts to ensure compliance with the Charter.

Furthemore, no information has been submitted by the Government on:

Article 31§1

- whether the notion of 'adequate housing' is defined in law;
- how the adequacy of the existing housing stock is checked, whether regular inspections are carried out and what follow-up is given to decisions finding that a dwelling does not comply with the relevant regulation;
- measures taken to promote access to different groups of vulnerable persons, including Roma and Travellers, refugees and asylum-seeking persons, especially unaccompanied children

Article 31§2

- whether sufficient places exist in emergency shelters and what are the conditions in the shelters
- whether adequate shelter is provided to children unlawfully present in the territory for as long as they are within the jurisdiction

Article 31§3

- whether the affordability ratio of the poorest applicants for housing is compatible with their level of income
- whether there exist measures to ensure that waiting periods for the allocation of housing are not excessive and that judicial or other remedies are available when waiting periods are excessive
- what legal remedies are available in case the application for housing benefits is rejected.

Therefore the ECSR considers that **obstacles remain with regard to the acceptance by Poland of Article 31§§1-3 of the Charter**.

IV. STATEMENT OF INTERPRETATION ON THE RIGHTS OF STATELESS PERSONS UNDER CHARTER (ECSR CONCLUSIONS 2013)

The Committee observes that statelessness remains a serious and pressing human rights problem which according to UNHCR estimates affects at least 12 million people worldwide,

[450] Conclusions 2003, Sweden; Conclusions 2019, Greece
[451] Conclusions 2003, Sweden
[452] Conclusions 2019, Turkey

including up to 600,000 in Europe. Stateless persons tend to be vulnerable to abuse, poverty and marginalization and may at least in practice face discrimination in accessing housing, health care, education, employment, social protection and freedom of movement.

The Council of Europe has drawn up and adopted two conventions relating to statelessness and nationality: the 1997 European Convention on Nationality (ETS No. 166) and the 2006 Convention on the Avoidance of Statelessness in Relation to State Succession (ETS No. 200). The Council of Europe Commissioner for Human Rights has repeatedly highlighted the protection needs of stateless persons and has stated that statelessness should prompt the international human rights system to offer greater protection rather than exclude or forget stateless persons from its scope.

In this light and noting that 2014 will be the 60th anniversary of the 1954 United Nations Convention on the Status of Stateless Persons the Committee takes the opportunity to clarify the rights of stateless persons under the European Social Charter.

The Committee recalls that in defining the scope of the European Social Charter in terms of persons protected, the Appendix provides the following in respect of stateless persons:

"3. Each Party will grant to stateless persons as defined in the Convention on the Status of Stateless Persons done in New York on 28 September 1954 and lawfully staying in its territory, treatment as favourable as possible and in any case not less favourable than under the obligations accepted by the Party under the said instrument and under any other existing international instruments applicable to those stateless prsons."

In the past, the Committee had considered stateless persons and refugees to be vulnerable groups (for refugees, see for example Conclusions 2009, Statement of interpretation on Article 14§1) and it has addressed general questions to the States Parties concerning the extension of the right to social security and the right to social and medical assistance to stateless persons and refugees (see Conclusions XII, reference period 1991-1992) and in most cases the Committee was able to ascertain that according to domestic legislation stateless persons were entitled to the same treatment as nationals with respect to these rights.

However, the Committee emphasises that the Charter's protection of stateless persons goes beyond social security and social and medical assistance extending also to the other social rights referred to in the 1954 Convention. The Committee thus considers that treatment on an equal footing with nationals and with nationals of other States Parties, as the case may be, must be guaranteed to stateless persons as defined by the 1954 Convention in respect of matters covered by the Charter and for which the 1954 Convention requires the same treatment as accorded to nationals, such as education, labour legislation, fiscal charges and access to courts. In matters covered by the Charter where the 1954 Convention requires treatment not less favourable than that accorded to aliens generally, such as housing, freedom of movement, trade union membership, access to wage-earning employment and self-employment, transfer of assets and expulsion, the Committee considers that stateless persons must be guaranteed the protection of the Charter on an equal footing with nationals of other States Parties to the Charter.

Furthermore, recalling that the Charter is a living instrument which must be interpreted in the light of its object and purpose based on the notion of human dignity, persons who are de facto stateless (for example, because they are unable to obtain proof of their nationality or because they have for valid reasons renounced the protection of the State of which they are a national) must enjoy the same treatment as de jure stateless persons as recommended in the Final Act of the 1954 Convention.

Finally, having noted that not all States Parties are bound by the 1954 Convention and the 1961 United Nations Convention on the Reduction of Statelessness as well the two above-mentioned Council of Europe conventions, the Committee wishes to encourage the States concerned to ratify these international treaties as soon as possible.

ANNEX I

PROGRAMME

The European Social Charter in Poland

organised by
the Department of Social Rights, DG I
Council of Europe
and
Ministry of Family, Labour and Social Policy
28-29 October 2024

- **1st Meeting on the non-accepted provisions of the European Social Charter**
- **Bilateral meetings**

This programme is organised within the framework of the procedure provided for by Article 22 of the 1961 Charter on "non-accepted provisions". It will consist of an exchange of views and information on selected provisions not accepted by Poland with a view to evaluating the prospects for acceptance of the revised Charter and additional provisions. In addition, there will be an exchange of views on the system of collective complaints, which has not yet been accepted by Poland. The programme includes bilateral meetings with other key stakeholders relevant for political decisions on the European Social Charter system in Poland.

DAY 1: 28 October 2024

Venue: Ministry of Family, Labour and Social Policy
Nowogrodzka 1/3/5, 00-513 Warsaw
Simultaneous translation: English/ Polish

*Moderator: **Ms Monika Szostak**, Director of the Department for International Cooperation, Ministry of Family, Labour and Social Policy/ **Joanna Maciejewska**, Department for International Cooperation, Ministry of Family, Labour and Social Policy*

8.45 Arrival of the ECSR/ CoE Delegation at the Ministry of Family, Labour and Social Policy

9.00 – 9.40 Meeting of the ECSR with the Mr -Sebastian Gajewski, Undersecretary of State, Ministry of Family, Labour and Social Policy

10.00 – 10.10 Opening of the meeting

- *Ms.Monika Szostak, Director of the Department for International Cooperation, Ministry of Family, Labour and Social Policy*
- *Ms. Aoife Nolan, President, European Committee of Social Rights*

10.10 – 10.20 Poland and the European Social Charter

- *Ms. Loreta Vioiu, Programme Manager, Department of Social Rights*

10.20 –11.00 The Charter system

Criteria for the ratification of the revised Charter
Charter system reform, the reporting procedure, the procedure under Article 22 (non-accepted provisions) of the European Social Charter of 1961 (ETS No. 35).

- *Mr. Aoife Nolan, President of the European Committee of Social Rights*
- *Mr Constantin Cojocariu, Lawyer, Department of Social Rights*
- *Ms. Loreta Vioiu, Programme Manager, Department of Social Rights*

Questions and answers

11.00 – 11.15 Coffee break

11.15 – 11.50 Article 2 The right to just conditions of work §§2 and 7

Situation in law and in practice in Poland. Prospects for acceptance.

- *Ms. Agnieszka Bolesta, Department of Labour Law, Ministry of Family, Labour and Social Policy*

Comments in the light of the Committee's conclusions and decisions

- *Mr Grega Strban, member of the European Committee of Social Rights*

Discussion

11.50– 12.30 Article 3 The right to safe and healthy working conditions §§2 and 4 *(in particular personal scope of application)*

Situation in law and in practice in Poland. Prospects for acceptance.

- *Ms Janina Rawa, Department of Labour Law, Ministry of Family, Labour and Social Policy (para 2)*
- *Ms Monika Skomorowska, Department of Public Health, Ministry of Health (para 4)*

Comments in the light of the Committee's conclusions and decisions

- *Mr Grega Strban, member of the European Committee of Social Rights*

Discussion

12.30 – 13.30 Lunch

13.30 – 14.10 Article 4§1. The right to a fair remuneration – decent standard of living *(in particular minimum wage level, transposition of the EU directive)*

Situation in law and in practice in Poland. Prospects for acceptance.

- *Ms Agnieszka Dylewska, Department of Labour Law, Ministry of Family, Labour and Social Policy*

Comments in the light of the Committee's conclusions and decisions

- *Ms Karin Lukas, former President of the European Committee of Social Rights*

Discussion

14.10 – 14.45 Article 7 The right of children and young persons to protection

§§ 1 and 3 *(in particular personal scope of application)*

Situation in law and in practice in Poland. Prospects for acceptance.

- *Ms Agnieszka Bolesta, Department of Labour Law, Ministry of Family, Labour and Social Policy*

Comments in the light of the Committee's conclusions and decisions

- *Ms Karin Lukas, former President of the European Committee of Social Rights*

Discussion

14.45 – 15.00 Coffee break

15.00 – 15.35 Article 21 The right to information and consultation

Situation in law and in practice in Poland. Prospects for acceptance.

- *Agata Oklińska, Director of the Department of Dialogue and Social Partnership, Ministry of Family, Labour and Social Policy…*

Comments in the light of the Committee's conclusions and decisions

- *Mr Constantin Cojocariu, Lawyer, Department of Social Rights*

Discussion

15.35 – 16.10 Article 26 The right to dignity at work
§§ 1 and 2

Situation in law and in practice in Poland. Prospects for acceptance.

- *Ms Agnieszka Bolesta, Department of Labour Law, Ministry of Family, Labour and Social Policy*

Comments in the light of the Committee's conclusions and decisions

- *Ms Karin Lukas, former President of the European Committee of Social Rights*

Discussion

16.10 – 16.50 The collective complaints procedure explained

- *Ms. Aoife Nolan, President of the European Committee of Social Rights*

Questions and answer

16.50 – 17.00 Conclusions and follow-up of the meeting:

- *Ms. Aoife Nolan, President of the European Committee of Social Rights*
- *Ms. Monika Szostak, Director of the Department for International Cooperation, Ministry of Family, Labour and Social Policy*

DAY 2: 29 October 2024

8.45 – 9.30 Meeting with Mr Jakub WIŚNIEWSKI, Undersecretary of State, Ministry for Foreign Affairs.
Mr WIŚNIEWSKI coordinates the issues of economic cooperation, human rights, global challenges and Poland's activity within the United Nations and the Council of Europe.
Venue: al. J. Ch. Szucha 23, 00-580 Warsaw

9.30 –9.45 Transfer to the Ministry of Family, Labour and Social Policy
Venue: Nowogrodzka 1/3/5, 00-513 Warsaw
Simultaneous translation: English/ Polish

9.45 – 10.40 Meeting with the Social Dialogue Council – International Affairs Committee

10.40 –10.50 Coffee break

10.50 – 11.30 Meeting with civil society organisations- Helsinki Foundation, Amnesty International, the Polish Institute for Human Rights and Business, etc

11.30 – 12.00 Transfer to the Sejm (Parliament)
Venue: Sejm ul. Wiejska 6/8 - 00 902 WARSZAWA Poland

12.00 – 14.00 Extraordinary session of the Parliamentary Social Policy and Family Committee (Sejm) with the participation of the Council of Europe Committee of Social Rights and Department of Social Rights Secretariat

- *Presentation of the European Charter system*
- *Presentation of the revised European Social Charter*
- *Presentation of the collective complaints procedure*
- *Poland and the European Social Charter*
- *Questions and answer*

14.00 – 15.00 *Lunch*

15.00 – 15.30 Tour of the Parliament

End of Programme

Council of Europe Delegation

Ms. Aoife Nolan, President of the European Committee of Social Rights
Mr. Grega Strban, member of the European Committee of Social Rights
Ms. Karin Lukas, former President of the European Committee of Social Rights
Mr. Constantin Cojocariu, Lawyer, Reporting Division, Department of Social Rights, Council of Europe
Ms. Monika Smusz-Kulesza, CoE Consultant on the European Social Charter, Poland
Ms. Loreta VIOIU, Programme Manager, Department of Social Rights, Council of Europe
Ms. Catherine GHERIBI, Senior Assistant, Department of Social Rights, Council of Europe

Interpretation

Aleksandra Sobczak <olagsobczak@gmail.com>
Magda Fitas-Czuchnowska <magdafitas.interpreter@gmail.com>

List of participants – Plenary meeting, 28 October

Ministry of Family, Labour and Social Policy

Department of Labour Law

1. Agnieszka Bolesta

2. Zenon Rycerz

3. Joanna Fałdyga

4. Agata Gronowicz

5. Marek Wesołowski

6. Aleksandra Pietras

7. Janina Rawa

8. Barbara Bąk

9. Agnieszka Dylewska

10. Agata Pupiec

11. Aleksandra Pietras

Department of Social Dialogue and Partnership

12. Agata Oklińska, Director of the Department

Department of Economic Analysis

13. Ewelina Taratuta

International Cooperation Department

14. Monika Szostak, Director of the Department

15. Joanna Maciejewska

Ministry of National Education

16. Anna Całus-Zawistowska, Department of Vocational Education

17. Adam Paprocki, Department of Vocational Education

Ministry of Health

18. Monika Skomorowska, Department Public Health

19. Anna Otolińska, Department of Public Health

National Labour Inspectorate

20. Jakub Chojnicki, Director of the Department of Supervision and Control

21. Halina Tulwin, Director of the Legal Department

22. Katarzyna Piecyk, Legal Department

Central Institute for Labour Protection

23. Dr. Zofia Mockałło, Head of the Department of Psychology and Sociology of Work

24. Dr. Magdalena Warszewska-Makuch, Department of Psychology and Sociology of Work

25. Dr. Karolina Pawłowska-Cyprysiak, Head of the Department of Physiology and Occupational Hygiene

26. Dr. Małgorzata Pęciłło-Pacek, Deputy Head of the Department of Occupational Health and Safety Management

List of participants, Council of Social Dialogue – International Affairs Committee, 29 October

1. Mme Agata Boutanos , Związek Przedsiębiorców i Pracodawców – Association of Entrepreneurs and Employers

2. M Maciej Legutko , Pracodawcy RP – Employers of the Republic of Poland

3. Jarosław Romaniuk, Związek Rzemiosła Polskiego – Polish Craft Association

4. Norbert Pruszanowski, Związek Rzemiosła Polskiego – Polish Craft Association

5. Andrzej Szumowski, Federacja Przedsiębiorców Polskich – Federation of Polish Entrepreneurs

6. Daniel Książek, Federacja Przedsiębiorców Polskich – Federation of Polish Entrepreneurs

7. Roman Michalski, Forum Związków Zawodowych – Trade Unions Forum

8. Piotr Ostrowski, OPZZ – All-Poland Alliance of Trade Unions

9. Jacek Dubiński, OPZZ – All-Poland Alliance of Trade Unions

10. Bogdan Kubiak, NSZZ „Solidarność" - Independent Self-Governing Trade Union "Solidarność

11. Ewa Kędzior, NSZZ „Solidarność" - Independent Self-Governing Trade Union "Solidarność

Civil society organisations, 29 October

Maciej Nowicki, Helsinki Foundation,

Adam Ploszka , Amnesty International,

Beata Faracik, Director, The Polish Institute for Human Rights and Business

Kuba Wygnański: kwygnanski@stocznia.org.pl, Stocznia (Shipyard) Foundation

Zofia Komorowska: zkomorowska@stocznia.org.pl., Stocznia (Shipyard) Foundation

Polish Section of the European Anti-Poverty Network

National Federation For Solving the Problem of Homelessness

List of participants, meeting at the Parliament, 29 October

1. Joanna Frydrych, deputy chairwoman of the Committee, Sejm
2. Urszula Rusecka, deputy chairwoman of the Committee, Sejm
3. Dorota Marek, deputy chairwoman of the Committee, Sejm
4. Bożenna Hołownia, member of the Committee, Sejm
5. Mracin Józefaciuk, member of the Committee, Sejm
6. Henryk Smolarz, member of the Committee, Sejm
7. Monika Rosa, member of the Committee, Chairwoman of the Committee on Children and Youth, Sejm
8. Jolanta Piotrowska, deputy chairwoman of the Committee on Family, Senior and Social Policy of the Senate
9. Deputy Speaker of the Senate Magdalena Biejat
10. Katarzyna Kruza, representative of the Children's Ombudsman
11. Anna Krupka, member of Senior Policy Committee, Sejm

ANNEX II

— Poland and the European Social Charter[453] —

Signatures, ratifications and accepted provisions

Poland ratified the 1961 European Social Charter on 25/06/1997 accepting 58 of the Charter's 72 paragraphs.

It ratified the Amending Protocol to the Charter on 25/06/1997.

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It has signed, but not yet ratified the revised European Social Charter on 25/10/2005.

It has not signed the Additional Protocol to the European Social Charter, nor the Additional Protocol providing for a system of collective complaints.

Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	3.1	3.2	3.3
4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3	6.4	7.1	7.2
7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1	8.2	8.3	8.4 *
9	10.1	10.2	10.3	10.4	11.1	11.2	11.3	12.1	12.2	12.3	12.4
13.1	13.2	13.3	13.4	14.1	14.2	15.1	15.2	16	17	18.1	18.2
18.3	18.4	19.1	19.2	19.3	19.4	19.5	19.6	19.7	19.8	19.9	19.10
AP1	AP2	AP3	AP4	AP = Additional protocol				Grey = Accepted provisions			

***** On 27/01/2011, Poland denounced Article 8§4b (prohibition of the employment of women in certain dangerous occupations).

Monitoring the implementation of the European Social Charter [454]

I. Reporting system [455]

Reports submitted by Poland

Between 1999 and 2023, Poland has submitted 22 reports on the application of the 1961 Charter.

The 21st report, submitted on 02/11/2021, concerns the accepted provisions relating to thematic group 3 "Labour Rights" (Articles 2, 4, 5, 6, Article 2 and 3 of the Additional Protocol).

Conclusions with respect to these provisions have been published in March 2023.

[454] The European Committee of Social Rights ("the Committee") monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure ».

Further information on the procedures may be found on the HUDOC database and in the Digest of the case law of the Committee.

[455] Detailed information on the Reporting System is available on the relevant webpage. The reports submitted by States Parties may be consulted in the relevant section.

The 22nd report, which was submitted on 17/11/2023, covers the accepted provisions of the Social Charter relating to thematic group 4 "Health, social security and social protection", namely:

- 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 children and young persons to social, legal and economic protection (Article 17);
- the right of migrant workers and their families to protection and assistance (Article 19).

Conclusions with respect to these provisions will be published in March 2024.

Situations of non-conformity [456]

Thematic Group 1 "Employment, training and equal opportunities" - Conclusions XXII-1 (2020)

► *Article 10§1 - Right to vocational training -technical and vocational training - Access to higher technical and university education*
There are no specific instruments deployed to integrate migrants and refugees into vocational education and training.

► *Article 15§1 – Right of persons with disabilities to independence, social integration and participation in the life of the community - Vocational training for persons with disabilities*
The right of children with disabilities to mainstream education is not effectively guaranteed.

Thematic Group 2 "Health, social security and social protection" - Conclusions XXII-2 (2021)

► *Article 12§1 – Right to social security - Existence of a social security system*
The minimum level of unemployment benefit is inadequate.

► *Article 12§4 – Right to social security - Social security of persons moving between states*
The right to maintenance of accruing rights is not guaranteed.

► *Article 13§3 - Right to social and medical assistance - Prevention, abolition or alleviation of need*
It has not been established that there are mechanisms in place to ensure that persons in need can receive personal assistance and counselling services free of charge.

► *Article 14§1 – Right to benefit from social services - Promotion or provision of social welfare services*
Access to social services by nationals of other States Parties is subject to an excessively long residence requirement.

Thematic Group 3 "Labour rights" - Conclusions XXII-3 (2022)

► *Article 2§1 – Right to just conditions of work - Reasonable working time*

- In some jobs the working day can exceed 16 hours and even be as long as 24 hours;
- On-call periods where no effective work is performed are considered as rest periods.

► *Article 4§2 – Right to a fair remuneration - Increased remuneration for overtime work*
The workers in both the public and private sectors do not have a right to increased compensatory time-off for overtime hours.

[456] Further information on the situations of non-conformity is available on the HUDOC database.

► *Article 4§3 - Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*
Pay comparisons are not possible across companies.

► *Article 4§4 – Right to a fair remuneration - Reasonable notice of termination of employment*
No notice period is required in cases where a worker is dismissed due to (i) long-term illness; (ii) occupational accident.

► *Article 5 – Right to organise*
- Civil servants exercising public powers listed in section 52 of the 2008 Civil Service Act cannot hold trade union positions;
- Members of the Internal Security Agency (ABW), the Secret Service Agency, the Central Anti-Corruption Bureau, the Military Counter-Intelligence Service and the Military Intelligence Service are prohibited from joining and forming organisations for furthering and defending their interests.

Thematic Group 4 "Children, families, migrants" - Conclusions XXI-4 (2019)

► *Article 8§4 – Right of employed women to protection - Regulation of night work and prohibition of dangerous, unhealthy or arduous types of work*
The regulation of night work does not adequately protect women carrying out night work in industrial employment.

► *Article 16 – Right of the family to social, legal and economic protection*
- The 10-year residence requirement to be eligible to family benefits for foreigners without a work permit, is excessive;
- Family benefits are inadequate for children under the age of five;
- It has not been established that in the reference period a significant number of families was entitled to child benefit for their first child.

► *Article 17 - Right of mothers and children to social and economic protection*
The maximum length of pre-trial detention is excessive.

► *Article 19§6 - Right of migrant workers and their families to protection and assistance - Family reunion*
- Family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion;
- Social benefits are excluded from the calculation of the level of means required to bring in the family or certain family members.

► *Article 19§8 - Right of migrant workers and their families to protection and assistance - Guarantees concerning deportation*
- A risk to public health constitutes a ground for expulsion;
- It has not been establishhed that a migrant worker's dependence on social assistance cannot constitute a ground for expulsion;
- It has not been established that a right to appeal is effectively guaranteed.

► *Article 19§10 - Right of migrant workers and their families to protection and assistance - Equal treatment for the self-employed*
The ground of non-conformity under Articles 19§6 and 19§8 applies also to self-employed migrant workers.

The Committee has been unable to assess compliance with the following provisions :

Thematic Group 1 "Employment, training and equal opportunities"

- ► Article 1§2 - Conclusions XXII-1 (2020)
- ► Article 1§3 - Conclusions XXII-1 (2020)

Thematic Group 2 "Health, social security and social protection"

- ► Article 3§1 - Conclusions XXII-2 (2021)
- ► Article 3§2 - Conclusions XXII-2 (2021)
- ► Article 11§1 - Conclusions XXII-2 (2021)
- ► Article 11§2 - Conclusions XXII-2 (2021)
- ► Article 11§3 - Conclusions XXII-2 (2021)
- ► Article 12§3 - Conclusions XXII-2 (2021)

Thematic Group 3 "Labour rights"

-

Thematic Group 4 "Children, families, migrants"

- ► Article 7§2 - Conclusions XXI-4 (2019)
- ► Article 7§10 - Conclusions XXI-4 (2019)
- ► Article 19§1 - Conclusions XXI-4 (2019)
- ► Article 19§2 - Conclusions XXI-4 (2019)
- ► Article 19§3 - Conclusions XXI-4 (2019)

II. Examples of progress achieved in the implementation of rights under the Charter *(non-exhaustive list)*

Thematic Group 1 "Employment, training and equal opportunities"

► With Poland's accession to the European Union, there is no longer a nationality requirement for access to the professions of sworn translator or to paramedics.

► The 2004 legislation on employment promotion and labour market institutions makes everyone eligible for vocational guidance, irrespective of nationality. Nationals of other States party to the European Social Charter are therefore entitled to equal treatment.

► The Act of 8 December 2000 amending the 1990 Higher Education Act lays down procedures by which foreign nationals can follow a course offered by a Polish higher education establishment. Nationals of other States party to the Social Charter may undertake and continue studies at higher education establishments in Poland in accordance with international agreements and their provisions, including the European Social Charter.

► Since the amendment to the Road Traffic Act of 20 April 2004, it has no longer been necessary to have Polish nationality to be a driving test examiner.

► Under the Act adopted on 24 August 2007, foreign nationals wishing to practise medicine in Poland must still obtain authorisation from the Chamber of Physicians, but authorisation must now be granted if the person concerned meets certain conditions, none of which depend on the applicant's nationality.

►The 2010 Act on Equal Treatment introduced into the Act on Vocational and Social Rehabilitation and Employment of Disabled Persons an expressly worded duty of reasonable accommodation for a person with disabilities who is employed, participates in the recruitment process or undergoes training, internship, etc. unless such measures would impose a disproportionate burden on the employer.

Thematic Group 2 "Health, social security and social protection"

► The Act of 23 January 2003 is expected to remedy previous shortcomings concerning waiting time for some medical treatment, as well as mismanagement of waiting lists.

►The National Labour Inspection Act of 13 April 2007 came into force on 1 July 2007. The act amended articles 304§1 of the Labour Code to extend the health and safety at work requirements applicable to self-employed persons. Employers who assign work to self-employed persons that has to be performed in an undertaking or any other specified location must ensure that the working conditions are healthy and safe, in accordance with Article 207 § 2 of the Labour Code. This article requires employers to protect the life and health of persons working there by supplying machinery, equipment and products that reflect scientific and technical progress.

► In 2008 the unemployment benefit was increased.

► The Regulation of the Minister of Health of 21 December 2012 on granting authorisation for radiological protection inspectors in laboratories using X-ray equipment for medical purposes and the Regulation of the Council of Ministers of 10 August 2012 on posts which are critical for nuclear safety and radiation protection and radiation protection inspectors were adopted during the reference period.

► The Council for Social Dialogue replaced the Tripartite Commission for Socio-Economic Affairs in accordance with the Law of 24 July 2015. The Council is made up of representatives of the government, workers represented by members of representative trade union organisations, and employers represented by members of representative employers' organisations. It conducts dialogue in order to lay the foundations for socio-economic development and increase economic competitiveness and social cohesion in Poland.

► The extension of certain health care benefits to refugees, their families, pregnant women and women who have just given birth and children under 18 years with refugee status or enjoying additional protection (law of 26 June 2014).

► Between 2016 and 2019, the National Labour Inspection developed a programme "Prevention of harmful effects of stress and other psychosocial risks in the workplace". The Council Directive 2013/59/Euratom laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation was transposed into Polish law on 13 June 2019.

► The minimum retirement pension was increased in 2016 and 2018, and the adjustment mechanism was modified. As a result of these changes, the minimum retirement pension has increased by 25% since 2016.

Implementation of the Retirement Pension+ programme began in 2019. This programme provides for the payment of a one-off supplementary benefit to any person in receipt of a retirement or other pension, regardless of its amount. In 2019, 9.74 million people received this benefit (including 6.7 million retired persons, 2.62 million pensioners and 282,000 persons in receipt of social assistance pensions).

Thematic Group 3 "Labour rights"

-

Thematic Group 4 "Children, families, migrants"

► The Act of 1 July 2001 expressly guarantees the right to family reunion of the migrant workers' family members.

► Article 2 of the Act of 10 June 2010 *amending the act on the countering domestic violence and certain other acts* introduced a new article to the Polish Family and Guardianship Code (Article 96^1) which prohibits corporal punishment in childrearing (no sanctions are provided either in civil or penal law, unless the punishment may be qualified as violence): *"Persons exercising parental authority, guardianship or care over a minor are forbidden to use corporal punishment".*
The law entered into force on 1 August 2010.

► Amendments to the Criminal Code were introduced in 2012; in particular, the new Article 202§4 b stipulates that whoever produces, distributes, presents, stores or possesses content showing pornographic image of minors (under the age of 18) shall subject to a fine, or imprisonment of up to 2 years.

►The Law of 28 May 2013 amended the provisions on maternity leave, in particular by introducing parental leave.

► The Law on Foreigners 2013 has inter alia streamlined the process for applying for residence permits, and transposed Directive 2011/98/EU concerning third-country nationals into Polish law.

► Section 186 of the Law on Foreigners 2013, which entered into force after the reference period, expressly provides that the right to family reunion shall be granted in accordance with the Social Charter.

APPENDIX III

High-Level Conference on the European Social Charter
"a step by member States to take further commitments under the Charter"
3-4 July 2024, Vilnius, Lithuania

VILNIUS DECLARATION

1. In the Reykjavik Declaration (May 2023), the Heads of State and Government of the Council of Europe confirmed that "[s]ocial justice is crucial for democratic stability and security" and "reaffirm[ed their] full commitment to the protection and implementation of social rights as guaranteed by the European Social Charter system". They proposed the holding of a high-level conference on the European Social Charter (ETS No. 35, (revised) ETS No. 163, "the Charter") "as a step to take further commitments under the Charter where possible".

2. At the 133rd Ministerial Session on 17 May 2024, the Committee of Ministers reiterated that social justice and the Council of Europe's action on social rights play a crucial role for democratic stability and security. The Ministers restated their commitment to the European Social Charter system and, in their decisions, underlined the importance of the Charter and its monitoring procedures, and welcomed the organisation of a high-level conference.

3. Following the principles set out in the Vienna Declaration and Programme of Action (adopted in 1993 at the World Conference on Human Rights), all "human rights are universal, indivisible, interdependent and interrelated". These rights include social rights, such as rights related to work, education, housing, social protection, health and well-being, and the human rights aspects of the environment. Combating inequality and social exclusion is vital for all, especially for disadvantaged individuals. It is also crucial for the implementation of the Sustainable Development Goals as defined by the United Nations 2030 Agenda for Sustainable Development.

4. The Council of Europe was established in the belief "that the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation". Social progress was enshrined in the Statute of the Council of Europe (ETS No. 1) as a cornerstone of lasting peace. The Russian Federation's ongoing war of aggression against Ukraine has had both immediate and lasting fallout as regards the enjoyment of human rights, including social rights for Ukrainians and all persons affected, and, very significantly, for women and children. The repercussions were and continue to be felt across Europe and throughout the world, including on the global economy and trade, particularly with increases in the cost of living and worsening food insecurity.

5. Social justice and the respect for, and the protection and implementation of social rights, as guaranteed in particular by the European Social Charter system, are crucial for promoting democratic security and stability. It is also very important to respond to new or emerging challenges and avoid the risk of further erosion of social rights protection and increasing inequalities, in order to maintain social cohesion in our societies.

6. Through its monitoring, reporting and collective complaints mechanisms, the Charter provides effective governance inputs, through both the European Committee of Social Rights and the Governmental Committee of the European Social Charter and European Code of Social Security ("the Governmental Committee"), in the pursuit of social justice and the protection of social rights.

7. On the occasion of this High-Level Conference, which coincides with the 25th anniversary of the entry into force of the revised European Social Charter and the 75th anniversary of the Council of Europe, the representatives of Council of Europe member States:

a. underline the importance of having a robust and responsive social rights framework across Europe, underpinned in particular by relevant treaty law, including the European Social Charter system. It is the collective duty of member States to promote respect for, and the continuing development of, social rights, both as human rights and also as vectors of economic growth, social progress and social cohesion, peace, security and stability;

b. affirm that military aggression and breaches of peace are incompatible with States' human rights obligations in general, and, in particular, with their social rights obligations; in this context, welcome the solidarity shown towards the people of Ukraine and the social protection offered by Council of Europe member States to those who are temporarily displaced;

c. acknowledge the possibility offered by the Charter for States Parties to increase progressively their commitments aimed at respecting, protecting and implementing social rights, a process that can and should be further strengthened through constructive and enhanced dialogue between the competent national authorities and the organs of the Charter, together with social partners;

d. welcome the commitment of member States of the Council of Europe to promote social justice and, in particular, the efforts made by member States to accept a high level of commitment to social rights, and the effective action taken by the States Parties to the European Social Charter to address the findings and conclusions of the European Committee of Social Rights when necessary;

e. recall that the Council of Europe Development Bank, in line with its unique social mandate, contributes to strengthening social cohesion through projects with social value in its member countries;

f. welcome the decisions adopted by the Council of Europe Committee of Ministers to improve the implementation of the Charter system and its monitoring arrangements. This includes an invitation to the European Committee of Social Rights to apply, where possible, the existing Charter provisions to new and emerging social policy challenges and to strengthen the role of the Governmental Committee in respect of follow-up and reflection;

g. acknowledge the crucial role of national executives and legislatures in strengthening the protection of social rights through legislative action, in particular the part parliaments play in the ratification process of international treaties, and the acceptance of additional commitments under the Charter.

8. Consequently, the representatives of Council of Europe member States:

a. commit to respect, protect and implement social rights in general and, for the States Parties to the Charter, to pay continued attention to the challenges and opportunities to implement the Charter's requirements and, to this end, encourage States Parties to make full use of all available possibilities for enhanced dialogue between the organs of the Charter, States Parties and social partners;

b. encourage member States to consider ratifying the revised European Social Charter (1996) in an effort, alongside the policy approaches of member States, to support the Council of Europe's stated aim of facilitating economic and social progress;

c. propose to keep under review the possibilities for acceptance of additional commitments under the Charter, including the collective complaints procedure;

d. invite the Committee of Ministers of the Council of Europe to:

i. enable further discussions with national as well as competent local and regional authorities, and social partners, in order to promote a rights-based approach to social policy and the sharing of knowledge and good practice in responding to persistent and emerging common problems and challenges. The following areas might be covered:

- inequalities, low incomes and social exclusion, housing and demographic change;
- any form of discrimination having an impact on the full enjoyment of social rights;
- the social rights dimension related to the Reykjavik Declaration commitment "to [strengthen the] work on the human rights aspects of the environment";
- persistent and emerging challenges in the area of work, with the necessary attention being paid to freedom of association and collective bargaining, new forms of employment, the transition to a green economy, digitalisation, including the advent of artificial intelligence, technological change, work-life balance and, very significantly, the questions of participation and dignity (such as the protection against all forms of harassment, including sexual harassment) in the workplace;

ii. give increased priority to co-operation activities in the field of social rights with a view to improving the implementation of the Charter in the light of the monitoring outcomes of the European Committee of Social Rights and related Committee of Ministers recommendations. The "social rights" component of the Council of Europe Action Plan for Ukraine "Resilience, Recovery and Reconstruction" 2023-2026, is an inspiring example of such activities;

iii. ensure co-operation among Council of Europe entities and committees in the area of social rights, and continue to work together while exploring possibilities to increase co-operation with other international organisations as well as with the European Union in promoting social rights as guaranteed by the European Social Charter and its protocols;

iv. remain open to considering possible measures for further optimising the Charter system;

v. explore regularly the need to convene this High-Level Conference to address contemporary social policy challenges, also taking into account the expected outcomes.