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EUROPEAN SOCIAL CHARTER

Addendum to the

10th National Report on the implementation of
the European Social Charter

submitted by

THE GOVERNMENT OF THE SLOVAK REPUBLIC

Articles 1, 10§1, 10§3, 10§4, 10§5, 20 and 24

for the period 01/01/2015 - 31/12/2018

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CYCLE 2020

**MINISTRY OF LABOUR, SOCIAL AFFAIRS AND FAMILY
OF THE SLOVAK REPUBLIC**

The European Social Charter (revised)

The Report of the Slovak Republic

on the implementation of the European Social Charter (revised)

Supplementary data to the selected provisions

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Article 1 Paragraph 2

Please provide updated information on legislation prohibiting all forms of discrimination in employment in particular on grounds of gender (if not accepted Article 20/Article 1 AP), race, ethnic origin, sexual orientation, religion, age political opinion, disability (if not accepted Article 15§2), including information on remedies.

With the adoption of the Anti-discrimination Act, definitions of equal treatment and discrimination were introduced into the Slovak legal system. The Act defines direct discrimination, indirect discrimination, harassment, sexual harassment, instruction to discriminate, incitement to discrimination and victimisation.

Except for incitement to discrimination (which is a form which goes beyond the scope of the Directives and does not conflict with them), the definitions follow the patterns of both Council Directives 2000/43/EC and 2000/78/EC. With the grounds covered, the act goes well beyond the list of grounds covered by the Directives (and this applies to all the areas mentioned in the directives). Discrimination by association is also prohibited. By determining whether discrimination has occurred or not, no account is taken of whether the reasons for discrimination were based on facts or on a false assumption.

Employment, social services, social insurance, social welfare payments and benefits, social advantages, health care, education, goods and services including housing – are spheres in which discrimination on the grounds of sex, religion or belief, race, affiliation with nationality or an ethnic group, disability, age, sexual orientation, marital status and family status, colour of skin, language, political or other opinion, national or social origin, property, lineage or other status is prohibited pursuant to the Anti-discrimination Act. In some cases and pursuant to other laws, discrimination is also prohibited on the ground of unfavourable state of health or on the ground of trade union activities or activities in associations.

The Anti-discrimination Act also imposes the duty to provide reasonable accommodation on employers. In particular, it obliges them to take appropriate measures to enable a person with a disability to have access to employment, to promotion or other advance at work and to training.

At the same time, accommodating the needs of a disabled person must not impose a disproportionate burden on an employer.

Differential treatment in employment (in particular the exception grounded on genuine and determining occupational requirements) is permitted if it is justified according to the rules identical with the Racial Equality and the Employment Equality Directive.

The Act also defines other exceptions to the principle of equal treatment. Discrimination on the ground of religion or belief is allowed for churches and religious organisations if a person's religion is fundamental for carrying out certain occupation. The Anti-discrimination Act provides that it does not apply to legal regulation of the status of third country nationals and states that in the armed forces and rescue services, discrimination on the grounds of disability and age is to be accepted. Under special circumstances, several exceptions concern differences in treatment on the ground of age, such as fixing age for access to employment, for entitlement to certain social benefits in employment or for the provision of insurance services. Discrimination on the ground of disability is not considered

to be discrimination in providing insurance services or in employment where the health requirements are essential for carrying out certain occupational activities. The fixing of different retirement ages for men and women, as well as protection of pregnant women and mothers, is allowed if it is objectively justified.

Please indicate any specific measures taken to counteract discrimination in employment of migrants and refugees.

The Labour Code (Act No. 311/2001 Coll.) And the Anti-Discrimination Act (Act No. 356/2004 Coll.) prohibit discrimination in employment relationships also on the grounds of belonging to a certain nationality or on the grounds of national origin, skin colour, language, ethnicity or race. According to the Anti-Discrimination Act and the related prohibition of discrimination do not apply to aliens only in cases of different treatment resulting from the conditions of entry and residence of aliens in the territory of the Slovak Republic. This is stipulated by special regulations. In the event that foreigners live legally in Slovakia (e.g. they are legally employed here), the above-mentioned laws and the protection against discrimination provided by these laws also apply to them.

Please indicate what measures have been taken to assess the prevalence of the problem of exploitation of vulnerability, forced labour, modern slavery? Does legislation exist to deal with the phenomenon of exploitation of vulnerability, forced labour, modern slavery and does it make provision for the identification and protection of victims, enable prosecution of exploiters, or otherwise provide reporting requirements for businesses to detail actions taken to investigate their supply chains for forced labour, due diligence in public procurement to guarantee funds are not inadvertently supporting modern slavery? Are there regular inspections of sectors such agriculture, construction, hospitality, manufacturing and domestic work, which are particularly affected by labour exploitation?

According to the Ministry of the Interior of the Slovak Republic, the National Reference Mechanism fulfils the goals mentioned in the questions above. The National Reference Mechanism (NRM) is a cooperation structure in which public authorities fulfil their obligation to protect the human rights of victims of trafficking in human beings, while cooperating with the non-profit sector. The basic goal of the NRM is to ensure respect for the human rights of victims of trafficking in human beings and to provide them with access to assistance services.

The structure of the NRM may vary from country to country, as it should be individually adapted to the characteristics and trends of trafficking in a particular country and its political, economic, social and legal environment. However, it should be set up to formalize cooperation (e.g. through understanding / cooperation agreements) between state and non-governmental actors in the field of victim assistance and to define the roles and responsibilities of each actor.

The NRM is usually headed by a national coordinator, who is a senior government official. The State Secretary for the Ministry of the Interior of the Slovak Republic is appointed as the National Coordinator for the Fight against Trafficking in Human Beings in the Slovak Republic.

Recommendations for the national strategy and procedures concerning victims of trafficking in human beings under its leadership are formed by a group of professionally higher-ranking representatives of government institutions and non-profit organizations. In the

Slovak Republic, the Expert Group for the Fight against Trafficking in Human Beings works on this principle, in which the Office of the Government of the Slovak Republic, individual ministries, local self-government and non-governmental and international organizations are represented.

The NRM often includes ad hoc multidisciplinary working groups that address specific areas related to victims. Such an "institutionalized" form of cooperation is case-oriented and covers all possible areas, including identification, assistance, protection, participation in legal proceedings and redress, compensation, return and social inclusion of victims of trafficking in the country of destination, transit or in the country of origin.

A necessary condition for the functioning of the NRM mechanism is the ability to react flexibly in the fight against all forms of exploitation, to respond to the individual circumstances of each case and the needs of the victim. Equally important are the ability to adapt to new trends in human trafficking, respond to gender issues and constantly update and improve the set system through its monitoring and testing.

NRM in Slovakia are represented by:

- National Coordinator for Combating Trafficking in Human Beings - State Secretary of the Ministry of the Interior of the Slovak Republic

Representatives of the Ministry of the Interior of the Slovak Republic and other designated state administration and self-government bodies

- Expert group on combating trafficking in human beings
- Multidisciplinary working groups in the field of combating trafficking in human beings

In 2018, in accordance with task No. 3.2 b) of the National Action Plan for Combating Trafficking in Human Beings for 2015-2018 of the National Program for Combating Trafficking in Human Beings for 2015-2018, the Information Centre for Combating Trafficking in Human Beings and Prevention of the Ministry of the Interior of the Slovak Republic in cooperation with the National Unit for Combating Illegal Migration of the Border and Alien Police Office of the Presidium of the Slovak Police, General Prosecutor's Office, Ministry of Justice and expert consultation with the Slovak Catholic Charity drafted a leaflet serving as a basic tool in informing victims of trafficking what they can expect during criminal proceedings.

Annually, in order to fulfil the tasks in the current National Program, a schedule is prepared for the implementation of trainings aimed at increasing the expertise of state and non-state entities in the field of trafficking in human beings (hereinafter referred to as "OSL") with a focus on victim identification and expanding the NRM focused on early victim identification. Lecture activities for schools were also carried out.

As a part of the development of the NRM, the Information Centre for Combating Trafficking in Human Beings and Crime Prevention was implemented by the Ministry of the Interior of the Slovak Republic (hereinafter referred to as the "IC") in 2017 training for several professional groups. The purpose was to deepen the knowledge and capacity building in the field of trafficking in human beings and to develop the NRM in order to provide adequate assistance to victims and facilitate the detection of the crime of OSL. It is for this reason that the participants included workers and employees of children's homes,

rehabilitation, diagnostic and re-education centres. The aim of these trainings was to build capacity for the early identification of potential victims, because we understand that children from children's homes are one of the most vulnerable groups and can become a target for traffickers. The participants were introduced to the issue of OSL in an interactive form and provided with practical information aimed at identifying victims, as well as steps on how to proceed in the event of finding out any information related to the crime of OSL. They also learned about prevention options and activities through which they can make young people aware of how they can minimize risks and pitfalls. In the second half of the year, trainings were provided for employees of labour inspectorates, as well as employees of university hospitals and employees of emergency medical services operating centres.

Lectures for primary and secondary school pupils and students, as well as for children in state and non-state children's homes, re-education facilities and medical and educational facilities, are also a means of disseminating preventive information. The content of the lectures is a basic knowledge about OSL, institutional arrangements for the fight against OSL in the Slovak Republic, identification of victims and program security, as young people are the target group who are interested in traveling abroad for work. In addition to expert explanations, the youth are also presented with film material - a documentary film capturing the testimonies of victims and provided with a special brochure with useful information about OSL, the program and contact details for national hotlines, NGOs and international organizations and embassies abroad. In accordance with the implementation of the National Action Plan to Combat OSL for the years 2015 - 2018, which is part of the national program for the years 2015 - 2018, the IC implemented in 2017 several lectures for schools, among others as part of the commemoration of the European Day against OSL.

In order to exchange experiences and mutual information, joint cooperative methodological and instructional meetings of IC staff are organized every year, which is managed by a specialized program for victims, with members of the National Unit for Combating Illegal Migration of the Border and Alien Police Office.

The introduction of a mechanism to support specific joint educational activities of bodies active in the field of protection of children against violence, aimed at preventing, identifying and addressing the issue of violence, is aimed at ensuring the professionalism and quality of policy implementation and at preventing institutional and systemic violations of children's rights. In this context, coordination meetings of participating staff are held on a regular basis, which, in addition to identifying current obstacles in cooperation and cooperation of participating entities, also defines current systemic shortcomings in detecting cases of violence and working with victims (e.g. secondary victimization in criminal proceedings), as well as proposing solutions to eliminate them. Coordination meetings are multidisciplinary and are attended by special psychological counselling centres, pedagogical-psychological counselling and prevention centres, social protection bodies for children and social guardianship, the police force, the prosecutor's office, municipalities, paediatricians, accredited entities and state children's homes. As the analysis and evaluation of situations in the field of violence against children includes indicators such as the number of cases of violence against children, the dominant specifics of these cases, risk factors associated with the occurrence of violence against children, etc., the findings of coordination meetings appear important also in the case of potential detection of crime, including OSL. In specific serious cases, ad hoc coordination meetings are held, which are also an important tool for identifying adverse events as well as improving procedures for protecting children from violence.

Another important activity in this field is the Program for the Support and Protection of Victims of Trafficking in Human Beings. The pilot phase of the Program for the Support and Protection of Victims of Trafficking in Human Beings (hereinafter referred to as the “Program”) was implemented within the National Action Plan to Combat Trafficking in Human Beings for 2006-2007. Its updating and continuation was implemented within the National Program to Combat Trafficking for the years 2008 - 2010, the National Program for Combating Trafficking in Human Beings for the years 2011 - 2014 and subsequently the National Program for Combating Trafficking in Human Beings for the years 2015 - 2018. The new National Program for Combating Trafficking in Human Beings for the years 2019 - 2023 was submitted to the meeting of the Government of the Slovak Republic and approved by the Resolution of the Government of the Slovak Republic no. 495/2018 of 6 November 2018 without comments.

The main objective of the national program is to establish a coordinated system to reduce the crime of trafficking in human beings, narrowing the scope for committing the crime of trafficking in human beings with regard to current trends and developments in the area in question, which includes an orientation towards the perpetrator and potential victims. To cover both sides, it is also necessary to focus on strengthening existing instruments, which have proven their worth in many years of experience, as well as on new instruments to combat trafficking in human beings, which reflect new trends in crime.

The document is aimed at suppressing the fight against trafficking in human beings, i.e. reducing the risk of potential victims of trafficking in human beings, as well as ensuring the provision of direct assistance to victims of trafficking in human beings in accordance with international and European standards and commitments of the Slovak Republic.

Article 10 paragraph 1

Please provide information on measures taken to integrate migrants and refugees in vocational education and training.

All the measures mentioned in the report apply to migrants and foreigners entering the education system of the Slovak Republic. These persons are able to benefit from the reformed system of the vocational education.

Article 10 paragraph 3 and 4

Please describe strategies and measures (legal, regulatory and administrative frameworks, funding and practical arrangements) in place to ensure skilling and re-skilling in the full range of competencies (in particular digital literacy, new technologies, human-machine interaction and new working environments, use and operation of new tools and machines), needed by workers to be competitive in emerging labour markets.

Please see the data provided in the report as regards Article 10 par. 1 and 3, as the reports contains the information requested.

Article 10 paragraph 5

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country.

The Slovak Republic would like to confirm that the information provided in the previous reports remain unchanged, meaning that foreigners studying in the Slovak Republic continue to be able to apply for all scholarships and loans associated with the studies irrespective of the length of stay.

The same applies for the application of the Government Decree No. 102/2006 towards foreigners studying in the Slovak Republic.

Regarding the vocational training programmes and the participation of social partners on the drafting of the legislation and supervision processes, please see the information provided in the report of 2019 in Article 10 par. 1.

Article 20

Please provide up-dated information on the statutory framework guaranteeing equal pay for equal work or work of equal value with particular emphasis on the following aspects:

- rules on shifting the burden of proof in cases where pay discrimination is alleged on grounds of sex
 - rules on compensation in case of pay discrimination on grounds of sex (are ceilings applicable?)
 - does national law and practice provide for pay comparisons outside the company directly concerned?
-

As far as the procedural rule determining the burden of proof and liability for non-compliance is concerned, as part of measures to ensure equal treatment, the burden of proof shifts to the defendant, in this case it's the employer.

In accordance with the principle of equal treatment for men and women, EU Directive 97/80 / EEC, based on the case law of the European Court of Justice, transfers the burden of proof to the defendant (Opinion of the European Court of Justice of 17 October 1997, Case C 109/88 Danfoss / 1989 / ECR 3199, paragraph 16).

The transfer of the burden of proof to the defendant has been included in the legislation of the Slovak Republic since 2001 in the Labour Code of 2 July 2001. In § 13, which dealt with the prohibition of discrimination in employment relations, para. 5 stated: "The employer is obliged to prove that the principle of equal treatment has not been violated." Since the adoption of Act 365/2004 Coll. on Equal Treatment in Certain Areas and on Protection against Discrimination (Anti-Discrimination Act), which extended the prohibition of discrimination from the field of employment to other spheres of social life, the regulation of the burden of proof is the content of this standard. In § 11, par. Article 2 (2) states: "The defendant shall be required to prove that he has not infringed the principle of equal treatment if the claimant provides the court with evidence from which it can reasonably be concluded that the principle of equal treatment has been infringed."

According to the Anti-Discrimination Act, everyone has the right to equal treatment and protection against discrimination. Anyone who considers that he or she is or has been affected by his or her rights, interests or freedoms in breach of the principle of equal treatment may claim his

or her rights in court. In particular, it may demand that the person who has not complied with the principle of equal treatment refrain from his action, if possible, rectify the illegal situation or provide adequate redress.

If adequate redress is not sufficient, in particular if non-compliance with the principle of equal treatment has significantly reduced the dignity, social seriousness or social status of the injured party, the injured party may also claim compensation for non-pecuniary damage. The amount of compensation for non-pecuniary damage in money shall be determined by the competent court, taking into account the seriousness of the non-pecuniary damage incurred and all the circumstances under which it occurred.

Please describe the job classification and promotion systems in place as well as strategies adopted and the measures taken to ensure pay transparency in the labour market (notably the possibility for workers to receive information on pay levels of other workers), including the setting of concrete timelines and measurable criteria for progress.

For the complexity of the view to examine the differences in income, an analysis based on the so-called cell system (from the English "jobcell system") is used. This type of analysis is based on the principle of comparing differences in remuneration of men and women working in the same job position according to the classification of occupations in the same organization. In the first, the pay gap between men and women was examined under the conditions if in at least one woman and at least one man (designated cell 1) work in the same position in the organization, in the second, if at least 10 men and at least 10 women worked in the same position (designated cell 10). However, at this number, it is more complicated to guarantee that this number represents a comparable job and position.

The differences in income are shown in the table below, which shows that the pay gap between women and men in the same position for the same employer it is at the level of 4 to 8%. There is a difference in the non-business sector minimum

	Average	Median	Average	Median
	Cell 1		Cell 10	
Total	4,46	4,62	8,62	8,47
Public sphere	0,33	0,88	4,15	4,7
Private sphere	5,95	5,95	9,94	9,58

Please provide statistical data on the gender pay gap (adjusted and unadjusted) for all years of the reference period.

In terms of legislation, the Slovak Republic meets the expected requirements set by the EU; in 2007, an important section of § 119a was added as part of the amendment to the Labor Code, which enshrines in Slovak legislation the same wage for the same work and for work of equal value for women and men. However, despite satisfactory legislation, it must be stated that differences persist in Slovakia in the remuneration of women and men. Although the gender pay gap has decreased significantly since EU accession, it currently still stands at around 18%. It has stagnated at this level for the last 5 years.

Regional differences in gender wage earnings suggest that the smallest difference is in the regions the lowest average wages. Although we do not have a closer analysis by

employment sector in individual regions, it is obvious that the highest difference is shown by self-governing regions with industrial structure, especially of the automotive and engineering industries, which binds typically to men jobs. The gender pay gap in the Bratislava region is essentially the same as the average from all over Slovakia, while average wages in absolute terms are significantly higher.

Article 24

Please provide an up-dated description of national law concerning valid reasons of dismissal. As regards dismissal for certain economic reasons, please indicate whether the courts have the competence to review a case on the economic facts underlying dismissals.

Please indicate what safeguards exist against retaliatory dismissal and dismissal due to temporary absence from work due to illness or injury (e.g time limit on protection against dismissal, rules applying in case of permanent disability and compensation for termination of employment in such cases).

Please indicate what strategies and measures exist or are being introduced to ensure dismissal protection for workers (labour providers), such as “false self-employed workers” in the “gig economy” or “platform economy”. Please outline the obligations on employers/labour engagers in this respect.

Please provide an up-dated description of national law and practice as regards compensation and reinstatement in case of unlawful dismissals.

In accordance with the Labour Code, the following are deemed to be valid reasons for the termination of employment:

a) **Agreement** (Section 60 of the Labour Code):

- (1) If the employer and the employee agree to terminate the employment, the employment will end on the agreed date.
- (2) The agreement on termination of employment is concluded in writing by the employer and the employee. The agreement must state the reasons for termination of employment, if the employee so requests or if the employment was terminated by agreement for the reasons specified in § 63 para. 1 letter a) to c).
- (3) One copy of the termination agreement shall be issued by the employer to the employee.

b) **Notice of termination** (Section 61 of the Labour Code):

- (1) Both the employer and the employee may terminate the employment. The notice must be in writing and delivered, otherwise it is invalid.
- (2) The employer may terminate the employment of an employee only for the reasons set out in this Act. The reason for the dismissal must be factually defined in the dismissal so that it cannot be confused with another reason, otherwise the dismissal is invalid. The reason for termination may not be changed subsequently.
- (3) If the employer has given notice to the employee pursuant to § 63 par. 1 letter (b), they may not, for a period of two months, re-establish the redundant post and recruit another staff member after the end of his employment.
- (4) Denunciation received by the other participant may be revoked only with his consent. Withdrawal of a notice as well as consent to its withdrawal must be made in writing.

- c) **Immediate termination** (Section 69 of the Labour Code):
- (1) An employee may terminate his employment immediately if
 - a) according to the medical report, he may no longer perform work without serious danger to his health and the employer has not transferred him to another suitable job within 15 days from the date of submission of this report,
 - b) the employer has not paid him wages, wage compensation, travel allowances, compensation for on-call time, compensation for income in the event of temporary incapacity for work of the employee or part thereof within 15 days after their expiry,
 - c) his life or health is immediately endangered.
 - (2) A juvenile employee may terminate his employment immediately, even in case he is unable to perform his work without compromising his morals.
 - (3) An employee may terminate his employment immediately only within one month from the day on which he became aware of the reason for the immediate termination of employment.
 - (4) An employee who terminates his employment immediately is entitled to compensation in the amount of his average monthly earnings for a period of notice of two months.
- d) **Termination of employment within the probationary period** (Section 72 of the Labour Code):
- (1) During the probationary period, the employer and the employee may terminate the employment in writing for any reason or without giving a reason, unless otherwise provided. The employer may terminate the probationary employment relationship with a pregnant woman, mother by the end of the ninth month after childbirth and breastfeeding woman only in writing, in exceptional cases unrelated to her pregnancy or maternity, and must duly justify it in writing, otherwise it is invalid.
 - (2) Written notice of termination of employment shall, as a general rule, be delivered to the other party at least three days before the date on which the employment is to be terminated.
- e) **Termination of employment for a definite period** (Section 71 of the Labour Code):
- (1) An employment relationship concluded for a definite period of time ends upon the expiration of this period.
 - (2) If the employee continues to perform work with the employer's knowledge after the expiration of the agreed period, this employment relationship has changed to an employment relationship concluded for an indefinite period of time, unless the employer agrees otherwise with the employee.
 - (3) Prior to the expiry of the agreed period, the employment relationship may be terminated pursuant to paragraph 1 in other ways specified in Section 59.

The courts may examine and review each case, even on economic reasons.

Retaliatory dismissals are considered discrimination against the employee concerned, therefore all remedies related to discrimination are fully applicable to dismissals. In case an

employee's injury results in their decreased capacity to work and if they are recognised as an employee with a health disability, the employer may not terminate this employee's contract without a consent of the district office of labour, social affairs and family. For additional information please see the supplementary data in Article 20 and the report.

Regarding the question on the protection granted for gig economy workers, the Slovak Republic would like to inform the Committee that it currently works on proper implementation of the Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union which introduces protection for these types of workers. This directive has been transposed into the national legislation by August 1, 2022. This is to be achieved by introducing amendments to the existing legislative acts and introducing new legislation on the topic. The Government has also initiated a close cooperation with the social partners in this drafting process. The Slovak Republic shall inform the Committee on new development in the area.

As far as compensation and reinstatement after unlawful dismissal is concerned, the Slovak Republic would like to confirm that all of the previously provided information are still valid. Section 77 of the Labour Code states that the invalidity of the termination of employment by notice, immediate termination, within probation period or by an agreement may be brought by the employee as well as the employer to the court no later than two months from the date on which the employment was to end. The Labour Code further states (Section 79) that if the employer has given the employee an invalid notice or if he has terminated his employment immediately or during the probation period and if the employee has informed the employer that he insists on continuing to work for the employer, his employment shall not be terminated, unless the court decides that it is not possible to require the employer to continue to employ the employee. The employer is obliged to provide the employee with wage compensation. This compensation belongs to the employee in the amount of his average earnings from the day he informed the employer that he insisted on further employment, until the time when the employer allowed him to continue working or if the court decides to terminate the employment relationship. Wage compensation can be granted for a maximum of 36 months on the basis of the court's ruling.

If the court's ruling states that the employment relationship has been unlawfully terminated, the worker may continue to work for the employer as of the date of the court's ruling and is also granted wage compensation for the period mentioned above. The injured party may also claim compensation for non-pecuniary damage on top of that.