March 2018

European Social Charter

European Committee of Social Rights

Conclusions 2018

THE REPUBLIC OF MOLDOVA

This text may be subject to editorial revision.

The following chapter concerns the Republic of Moldova which ratified the Charter on 8 November 2001. The deadline for submitting the 14th report was 31 October 2017 and the Republic of Moldova submitted it on 31 July 2018.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report concerns the following provisions of the thematic group "Labour Rights":

- right to just conditions of work (Article 2),
- right to a fair remuneration (Article 4),
- right to organise (Article 5),
- right to bargain collectively (Article 6),
- right to information and consultation (Article 21),
- right to take part in the determination and improvement of the working conditions and working environment (Article 22),
- right to dignity at work (Article 26),
- right of workers' representatives to protection in the undertaking and facilities to be accorded to them (Article 28),
- right to information and consultation in collective redundancy procedures (Article 29).

The Republic of Moldova has accepted all provisions from the above-mentioned group except Articles 4§1, 4§2 and 22.

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

The conclusions relating to the Republic of Moldova concern 20 situations and are as follows:

– 8 conclusions of conformity: Articles 2§1, 2§5, 2§6, 6§1, 21, 26§1, 26§2 and 29,

– 10 conclusions of non-conformity: Articles 2§2, 2§3, 2§7, 4§3, 4§4, 4§5, 5, 6§3, 6§4 and 28.

In respect of the 2 other situations related to Articles 2§4 and 6§2 the Committee needs further information in order to examine the situation. The Committee considers that the absence of the information requested amounts to a breach of the reporting obligation entered into by the Republic of Moldova under the Charter. The Committee requests the authorities to remedy this situation by providing the information in the next report.

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

Article 26§1

Legislative amendments of 2016 (Law No. 71 of 14 April 2016) (…) have introduced the obligation for the employer to inform the employees that all acts of discrimination and sexual harassment are prohibited at work. Such an obligation is henceforth provided in the Law on equal opportunities (Law No. 5 of 9 February 2006, Article 10§2d) and the Labour Code: pursuant to Articles 10§2 and 199§1 of the Labour Code, as amended in 2016, the internal regulations of each employment unit shall provide for the respect of "the principle of non-discrimination, the elimination of sexual harassment and any form of denial of work". Under Article 48§2 of the same Code, employees shall be provided, for informational purposes, with a set of documents that are applicable to them, including the internal regulations of the unit. (…).

In addition, the State Labour Inspectorate shall monitor the observance of the legal provisions regarding the prevention and elimination of cases of discrimination and cases of sexual harassment at the work place (Article 1§113.k of Law No. 140 of 10 May 2001, as amended in 2016). (…) the Law on equal opportunities (Article 19§32), as amended in 2016, provides henceforth that gender coordinating groups shall examine cases of discrimination based on sex, and cases of sexual harassment, at the branch level and in the decentralized

structures; the law also provides that the materials accumulated in such cases be forwarded to the law enforcement bodies.

Article 26§2

Legislative amendments of 2016 (Law No. 71 of 14 April 2016) (…) have introduced the obligation for the employer to inform the employees that all acts of discrimination and sexual harassment are prohibited at work. Such an obligation is henceforth provided in the Law on equal opportunities (Law No. 5 of 9 February 2006, Article 10§2d) and the Labour Code: pursuant to Articles 10§2 and 199§1 of the Labour Code, as amended in 2016, the internal regulations of each employment unit shall provide for the respect of "the principle of non-discrimination, the elimination of sexual harassment and any form of denial of work". Under Article 48§2 of the same Code, employees shall be provided, for informational purposes, with a set of documents that are applicable to them, including the internal regulations of the unit (…).

* * *

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

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19),
- the right of workers with family responsibilities to equal opportunities and equal treatment (Article 27),
- the right to housing (Article 31).

The deadline for submitting that report was 31 October 2018.

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Conclusions and reports are available at www.coe.int/socialcharter as well as in the HUDOC database.

Article 2 - Right to just conditions of work

Paragraph 1 - Reasonable working time

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

The report indicates that the provisions of the Labour Code regulating daily and weekly working time have not been modified during the reference period.

The Committee noted previously that under Article 99 of the Labour Code (global record of working time) for enterprises where the global record of working time can be introduced, the reference period should not exceed one year, and daily duration of working hours (shifts) cannot exceed 12 hours. Moreover, it was noted previously that the working week cannot exceed 60 hours and under Article 100 (6) of the Labour Code, for certain types of activities, establishments or professions, the collective agreement may establish a maximum daily working time of 12 hours followed by a rest period of at least 24 hours (Conclusions 2014).

In reply to the Committee's request for an estimate of cases where the reference period had been established at one year at the enterprise level, the report indicates that there are no statistical data available that would reveal the actual duration of the reference period established by the enterprises which apply the global record of working time according to Article 99 of the Labour Code.

The report provides statistical data indicating the duration of the working week and number of workers in different economic activities. The Committee notes from the data provided by the National Bureau of Statistics that in the areas of agriculture, hunting and fish farming as well as in wholesale, retail, hotels and restaurants, a big number of workers work more than 41 hours per week. The Committee asks whether in practice there may be circumstances where it would be possible for an employee to work more than 60 hours per week, in particular in the areas mentioned above.

The Committee asks what rules apply to on-call service and whether inactive periods of on-call duty are considered as a rest period in their entirety or in part.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in the Republic of Moldova is in conformity with Article 2§1 of the Charter.

Article 2 - Right to just conditions of work

Paragraph 2 - Public holidays with pay

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

It notes that Article 111 of the Labour Code, as amended, provides for thirteen non-working paid public holidays except when the non-working public holiday coincides with the weekly rest day.

The Committee previously noted (Conclusions 20104) that Article 158 of the Labour Code provided that employees paid on a piecework, hourly or daily basis must receive at least double pay when they work on a public holiday. Monthly paid employees must receive at least in the amount of time unit salary or one-day pay in addition to the base salary, if the work on the non-working day was performed within the limit of the monthly working time norm, and at least the double amount of salary per unit of time or one-day pay in addition to the base salary, if the work was done over the monthly norm.

In response to the Committee's question as to whether compensatory time off could be granted in addition to the payment of the public holiday and of the standard – non increased – wage, the report clarifies that, according to Article 158.2, instead of the remuneration due for a work on a non-working day, at a written request of the employee, the employer may give him/her a rest day, which will not be paid.

The Committee points out that under Article 2§2, the State Parties to the Charter are required to provide for paid public holidays. In case when employees are required to work on a public holiday an increased remuneration in addition to the base salary, as well as additional compensatory time off should be provided. Based on the abovementioned, the Committee concludes that the situation in the Republic of Moldova is not in conformity with the Article 2§2 of the Charter.

Conclusion

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 2§2 of the Charter on the ground that employees working on a public holiday are not entitled to both additional remuneration and compensatory time off.

Article 2 - Right to just conditions of work

Paragraph 3 - Annual holiday with pay

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

The Committee refers to its previous conclusion (Conclusions 2014) for a description of the relevant legislation concerning the right to paid holiday under Article 43 of the Constitution and Articles 112-122 of the Labour Code. It noted that the minimum duration of paid holiday was in general 28 calendar days, but found that the situation was not in conformity with Article 2§3 of the Charter on the grounds that the in certain circumstances, the law allowed all annual leave to be carried over to the following year, without guaranteeing the workers' right to take at least two weeks' uninterrupted holiday during the year the holidays are due.

In this respect, the report states that Article 118§3 of the Labour Code, which provided for the postponement, in exceptional cases, of the annual leave for the following year was amended by Law no. 157 of 20 July 2017 (out of the reference period). As a result of these amendments, only a part of the annual leave may henceforth be postponed for the following year, with the written consent of the employee and the written agreement of the employees' representatives. "In such case, in the current working year, the employee will be granted at least 14 calendar days from the annual leave account, the remaining part being granted until the end of the following year".

The Committee points out that the Charter allows annual leave to be carried over to the following year under particular and justified circumstances, provided that the worker has at least two uninterrupted weeks of holiday during the current year. It accordingly asks the next report to clarify whether, under the amended provision, the worker is entitled to 14 uninterrupted calendar days from the annual leave account to be used during the current year.

However, the Committee notes that the abovementioned legislative changes occurred out of the reference period, therefore the situation remained unchanged during the reference period.

Conclusion

The Committee concludes that the situation in the Republic of Moldova **was** not in conformity with Article 2§3 of the Charter during the reference period on the ground that in certain circumstances, the law allowed all annual leave to be carried over to the following year, without guaranteeing the workers' right to take at least two weeks' uninterrupted holiday during the year the holidays are due.

Article 2 - Right to just conditions of work

Paragraph 4 - Elimination of risks in dangerous or unhealthy occupations

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

The Committee points out that the States Parties to the Charter are required to eliminate risks in inherently dangerous or unhealthy occupations, as well as to apply compensatory measures to workers exposed to risks which cannot be or have not yet been eliminated or sufficiently reduced either in spite of the effective application of the preventive measures referred to above or because they have not yet been applied.

Elimination or reduction of risks

The Committee refers to its conclusions under Article 3§1 of the Charter (Conclusions 2013, 2017), and takes note of information provided in the relevant reports on the regulatory and implementing measures taken by the authorities and particularly by the National Labour Inspectorate in implementing Act No. 186-XVI of 10 July 2008 on occupational safety and health. Furthermore, the Committee takes note of the measures taken by the authorities regarding requirements under Article 3, paragraphs 1 to 3 (Conclusions 2013, 2017), in particular, risk-assessment measures, preventive measures geared to the nature of risks and training and information measures.

The Committee notes that, despite the adoption of the aforementioned measures, a number of measures still need to be adopted and implemented to afford effective prevention of the risks linked with dangerous or arduous activities. It asks for information in the next report on the measures taken to eliminate or reduce the risks associated with dangerous or unhealthy activities and, in particular, information and statistics proving that these measures have been effectively implemented by means including the establishment of an efficient labour inspection system. The Committee considers that if the requested information is not provided in the next report, there will be nothing to establish that the situation in Moldova is in conformity with Article 2§4 of the Charter in this respect.

Measures in response to residual risks

The Committee refers to its previous conclusions (Conclusions 2014) and notes that the situation which it has previously considered to be in conformity with the Charter has not changed. It asks nevertheless that the next report provide further details on the type of compensatory measures applied, specifying wherever possible, what measures apply to the different categories of workers exposed to residual risks, and what the percentage of such workers covered by these compensatory measures at issue is.

Conclusion

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

Article 2 - Right to just conditions of work

Paragraph 5 - Weekly rest period

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

The Committee reiterates its previous conclusion (Conclusions 2014), where it has noted that Moldovan legislation does not allow weekly rest days to be deferred, as it is compulsory for employees to have at least one full day of rest per week. The situation has not changed and it is not possible for an employee to work for 12 consecutive days without a rest day.

Conclusion

The Committee concludes that the situation in the Republic of Moldova is in conformity with Article 2§5 of the Charter.

Article 2 - Right to just conditions of work

Paragraph 6 - Information on the employment contract

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

The Committee noted that the length of notice periods for termination of contracts or employment relationships does not have to be stipulated in the contract, but is established instead by Article 184 of the Labour Code. The Committee asked whether this information is included in other mandatory documents given to workers upon recruitment (employers' and employees' rights and obligations, collective contracts or company regulations; official appointment orders, post descriptions, etc.) or, alternatively, whether the contract refers to the relevant statutory provision (Concluions 2014).

In reply to the Committee's question, the report states that Article 48.1 of the Labor Code, amended during the reference period, stipulates that prior to hiring or transferring an employee to a new position, the employer is obliged to inform the person to be employed or transferred about the working condition for the proposed position by providing the information stipulated under Article 49.1, as well as information about the periods of notice to be observed by the employer and the employee in case of termination of the activity. The information in question will be the subject of a draft individual employment contract or an official letter, signed by the employer.

Thus the Committee notes that the information to be provided to the employee complies with the requirements of Article 2§6 of the Charter.

Conclusion

The Committee concludes that the situation in the Republic of Moldova is in conformity with Article 2§6 of the Charter.

Article 2 - Right to just conditions of work

Paragraph 7 - Night work

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

It notes that Article 103 of the Labour Code defines night work as work performed between 10 p.m. and 6 a.m and regulates the duration of the night work.

The Committee previously conclude that the situation in the Republic of Moldova was not in conformity with Article 2§7 of the Charter on the ground that legislation made no provision for a medical check-up before being assigned to night work.

The report provides no new information in this respect, it again states that, according to Article 103 medical examinations are only provided for employees who have done at least 120 hours of night work over a six-month period. The law does not provide for a medical examination prior to beginning night work.

The Committee points out that Article 2§7 of the Charter requires regular medical examinations, including a check-up prior to assignment to night work. In the light of the information provided, the Committee concludes that the situation is not in conformity with the Charter in this respect.

The report states that by virtue of the recently introduced paragraph 4 to Article 250 of the Labour Code, pregnant women, women who have recently give birth and nursing mothers will be prohibited from working at night and will be transferred to day work while maintaining the average wage from the previous job.

Conclusion

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 2§7 of the Charter on the ground that the legislation makes no provision for a medical examination before being assigned to night work.

Article 4 - Right to a fair remuneration

Paragraph 3 - Non-discrimination between women and men with respect to remuneration

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

Legal basis of equal pay

In its previous conclusions on Article 20 (Conclusions 2012) and Article 4§3 (Conclusions, 2014), the Committee requested information on the legislative framework guaranteeing the right to equal pay for the work of equal value. The report states that the Labour Code, the Law No.121 of 25 May 2012 on Ensuring Equality and Law No. 5 of February 9, 2006 on Equal Opportunities for Women and Men have covered all the elements of remuneration defined in Article 4§3 of the Charter. Failure to comply with this principle is, according to the report considered as a discriminatory action by the employer in both Law no. 5/2006 (article 11), as well as in Law No. 121 of 25 May 2012 on Ensuring Equality (Article 7 (2) letter d). Taking this into account, the Committee asks the next report to provide information on whether both direct and indirect discrimination is prohibited, as well as on the definitions of equal pay and pay for work of equal value.

Guarantees of enforcement and judicial safeguards

The Committee noted in its previous conclusions (under Article 20 (Conclusions 2012) and under Article 4§3 (Conclusions, 2014)) that, according to the Law of 9 February 2006, persons who consider themselves to have been the victims of discrimination on the ground of gender, as a result of a decision by their employer can ask the employer in writing for the reasons for such a decision. Employers have 30 days to reply to such requests and if they fail to reply in time their employee may take legal action against them. The Committee further noted the adoption of Law No. 121 of 25 May 2012 on Ensuring Equality further provides for a Council to Prevent and Combat Discrimination and Ensure Equality, responsible for reviewing complaints of discrimination and making recommendations. The Committee asked for information on its activity and on the number of complaints related to discrimination in employment received and the outcome of such complaints. It also asked whether the Council is competent to impose sanctions on employers and to grant compensation to victims.

In its report, the Government submits that there have been no cases concerning pay discrimination before national courts. The report nevertheless states that, in 2017, the Government adopted a strategy to implement, among other measures, a methodology for examining cases of wage discrimination. No other specific information appears in the report in this respect. The Committee considers therefore that the situation in Moldova is not in conformity with the Charter, concerning the effectiveness of the judicial safeguards to enforce the principle of fair remuneration.

The Committee recalls that under Article 4§3 of the Charter domestic law must provide for appropriate and effective remedies in the event of alleged wage discrimination. Employees who claim that they have suffered discrimination must be able to take their case to court. Domestic law should provide for a shift of the burden of proof in favour of the plaintiff in discrimination cases. The Committee further recalls that anyone who suffers wage discrimination on grounds of gender must be entitled to adequate compensation, that is, compensation that is sufficient to make good the damage suffered by the victim and act as a deterrent to the offender. Any ceiling on compensation that may preclude damages from making good the loss suffered and from being sufficiently deterrent is proscribed. The Committee reiterates its question for the next report on cases, not only in front of judicial bodies, but also in front of labour bodies in cases of employment discrimination, their nature and their outcome and possible compensations given to the employees.

Methods of comparison

The report states that pay comparison is possible in the public sector jobs, where the conditions of employment and amount of wages are set centrally by the law and the decisions of the Government. However, the report does not contain specific information on the pay comparisons in private sector. In the light of the lack of information submitted in the present report, the Committee considers that it is not demonstrated that pay comparisons across companies in the private sector are possible and therefore the situation is not in conformity with the Charter.

The Committee further reiterates the question asked in the last cycle and asks the next report to provide information on whether the law prohibits discriminatory pay arising out of statutory regulation or collective agreements, as well as if the pay comparison is possible outside one company, for example, if such company is a part of a holding company and the remuneration is set centrally by such holding company.

Statistics

The Committee takes note of the long information on the statistics relating to the average salary of women and men in different sectors of the economy. It notes that in 2016 women were predominant in all sectors in the medical and social services sections, in the field of education, in catering and accomodation and in financial services. In global salary comparisons, in 2016, women earned on average by 14.5% less than men (85.5% of the average salary of men), while in 2011 women earned 87.8% of the average salary of men.

The report explains that gender pay gap is largely determined by the feminisation/ masculinization of the areas and wage gaps in these areas. It is caused both by structural factors of the labor market and by factors directly related to the employer's policy. Among the structural factors are elements such as low access to nursery services, childcare leave is one of the longest compared to EU countries and mostly just women can benefit from it. At the same time, the salary differences are determined by the internal (formal and informal) procedures of the employer.

Policy and other measures

The Committee takes note of the information submitted in the report concerning the policy measures adopted. The National Employment Strategy for the years 2017-2021, approved by the Government Decision No. 1473 of 30 December 2016, includes measures to promote gender equality in the field of occupational policies, which will contribute to improving the situation of women on the labour market. Thus, the Action Plan of the Strategy includes two Action Directions dedicated to this goal: one for developing gender mainstreaming capacities in sectorial policies, which includes the following actions; and one for improving gender-sensitive monitoring and evaluation of employment measures. In addition, a Labour Market Observatory has been created.

The Committee asks for information in the next cycle on the measures adopted to tackle the gender pay gap, their implementation and their impact.

Conclusion

The Committee concludes that the situation in Moldova is not in conformity with Article 4§3 of the Charter on the ground that:

- the judicial enforcement of the principle of fair remuneration is not guaranteed in practice;

- there are no pay comparisons across companies in the private sector.

Article 4 - Right to a fair remuneration

Paragraph 4 - Reasonable notice of termination of employment

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

In its previous conclusion (Conclusions 2014), the Committee held that the situation was not in conformity with Article 4§4 of the Charter, on the grounds that as a general rule, no notice period and/or severance pay in lieu thereof was applicable to dismissal in the private sector, or termination of duties in the public sector and that with regard to the particular situations in which provision had been made for notice or severance pay in lieu thereof, the period or amount was not reasonable in several circumstances.

The Committee refers to its previous conclusion (Conclusions 2014) for a detailed description of the grounds for termination of employment and notice periods applicable.

The report indicates that the national legislation does not provide notice periods depending on the length of service. However it also states that Article 186 of the Labour Code, which was amended during the reference period, provides that employees dismissed due to liquidation of the undertaking, due to the termination of the activity of an individual (Article 86 (1) (b)) or due to a reduction in the number of staff are entitled to:

- for the first month (after the dismisal), payment of a severance allowance, which amounts to the sum of an average weekly salary for each year of service in the undertaking, but not less than an average monthly salary.
- for the second month (after the dismisal, payment of a dismissal allowance, which amounts to the average monthly salary if the dismissed person was not placed in the workforce/has not found new employment ;
- for the third month (after the dismisal), payment of a dismissal allowance, which amounts to the average monthly salary, under the condition that the employee was registered within 14 calendar days at the territorial employment agency as an unemployed person and not was placed in the workforce;

Employees dismissed due to a health problem or insufficient qualifications (Article 86 (1) (d) and (e)), due to reinstatement of the previous employee following a court's decision (Article 86 (1) (t)), and due to military service or civil service (Article 76 (e)), are entitled to a severance allowance, which amounts to two week's average wage. The Committee considers that the situation is not in conformity with the Charter, on the ground that the severance pay of two weeks' wage, where applicable, is not reasonable for employees with more than six months of service.The Committee therefore reiterates its previous conclusion of non-conformity.

The Committee requests information on notice periods or severance payments for dismissal from the public sector, for dismissals for early termination of fixed term contracts and during the probationary period.

Conclusion

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 4§4 of the Charter on the ground that notice periods are not reasonable in the following cases

- for employees with more than 6 months of service notice periods or severance pay in lieu,
- in the event of dismissal on grounds of health,
- in the event of a court ordered reinstatement of a previous employee.

Article 4 - Right to a fair remuneration

Paragraph 5 - Limits to deduction from wages

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

In its previous conclusion (Conclusions 2014), the Committee held that the situation was not in conformity with Article 4§5 on the ground that, after all authorized deductions, the wage of workers with the lowest pay did not allow them to provide for themselves and their dependants. The Committee held that the limits set by Article 149 of the Labour Code allowed situations to persist in which workers receive only 70% or 50% of the minimum wage, an amount which did not allow them to provide for themselves and their dependants.

The report indicates that employees on low wages and whose wages are subject to deductions, can benefit from social assistance benefits. However, the report does not indicate any change regarding the limits to deductions from wages, as they are regulated by Articles 147-150 of the Labour Code. The Committee, therefore, reiterates its previous conclusion of non-conformity.

In its previous conclusion (Conclusions 2014), the Committee reiterated its request for information on the measures preventing workers from waiving their right to limited deductions and pointed out that, unless this information is provided in the next report, it will lack the means to establish that the situation in the Republic of Moldova is in conformity with Article 4§5 of the Charter.

The report does not provide information in this regard. The Committee, therefore, considers that the situation is not in conformity with Article 4§5 on the ground that it has not been demonstrated that there are sufficient measures preventing workers from waiving their right to limited deductions from wages.

Conclusion

The Committee concludes that the situation in Moldova is not in conformity with Article 4§5 of the Charter on the grounds that:

- after all authorised deductions, the wages of workers with the lowest pay do not allow them to provide for themselves and their dependants;
- It has not been demonstrated that there are sufficient measures preventing workers from waiving their right to limited deductions from wages.

Article 5 - Right to organise

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

The Committee examined the situation with respect to the right to organise (forming trade unions and employer associations, freedom to join or not join a trade union, trade union activities, representativeness and personal scope) in its previous conclusions (Conclusions 2014 and 2016. It will therefore only consider recent developments and additional information in this conclusion

Forming trade unions and employers' organisations

The Committee concluded in its previous conclusion (Conclusions 2010) that the requirement imposed by Section 10 of the Law on Trade Unions, that primary trade union organisations may acquire the status of a legal entity only if they are members of a national branch or national inter-sectoral trade union, is not in conformity with Article 5 as it constitutes an undue restriction on the right to form trade unions.The Committee notes that according to the report the Law on trade unions was amended during the reference period so that any trade union becomes a legal entity upon its registration at the Ministry of Justice.

The Committee finds the situation to be in conformity now on this point.

The Committee recalls that it previously noted that the Ministry for Justice had refused to register the Trade Union of Public Administration and Civil Service Staff (USASP) and the Supreme Court has upheld the refusal of the Ministry of Justice to register it. The Committee noted that the USASP had applied for registration several times, which has repeatedly been denied (Conclusions 2014, 2016).

The Committee asked for information on the grounds on which the Ministry of Justice may refuse to register a trade union, and in particular the grounds on which it refused to register the USAP, as well as information on the decision of the Supreme Court upholding the decision. Meanwhile it deferred its conclusion (Conclusions 2016).

The report states that the Ministry for Justice refused to register the above mentioned trade union on the grounds that the statutes were not inconformity with the requirement of the law. The Committee notes the detailed clarification provided and the fact that there were no examples of refusal to register a trade union during the reference period. The Committee asks to be kept informed of all future refusals to register a trade union and the grounds upon which any refusal was based.

Trade union activities

The Committee previously noted that according to the ILO Committee on Freedom of Association, alleged acts of interference by the Government and employers in the trade unions' internal affairs had not been investigated and requested information in this respect (Conclusions 2016).The report provides no information on this respect. The Committee further notes from ILO that the Contravention Code was amended in 2016 so as to increase the level of fines. The Committee notes that despite the increase, the ILO requested the Government to review the fines and other types of sanctions so as to ensure effective protection against acts of anti-union discrimination and interference.

The Committee asks for information on any measures taken to review the fines and sanctions. Meanwhile, it considers that it has not been demonstrated that the situation is in conformity with the Charter in this respect.

Representativeness

The Committee previously noted (Conclusions 2014) that there is only one trade union at national level, with an affiliated trade union at each of the sectoral, territorial and company

levels and that the ITUC had alleged that the merger of the ITUC's affiliated Confederation of Trade Unions of the Republic of Moldova (CSRM) and the trade union confederation *Solidaritate* was a result of pressure exerted by the Government. In this context, the Committee asked the Government how the plurality of trade unions is ensured so that the economic, social and professional rights of workers are best protected in the Republic of Moldova. The report provides no information in this respect. It repeats its request for information.

Personal scope

The Committee previously requested information on the right of the police to organise (Conclusions 2014). No information was provided therefore the Committee repeats its request for this information and the Committee considers that it has not been demonstrated that the situation is in conformity with the Charter on this point.

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

Conclusion

The Committee concludes that the situation in Moldova is not in conformity with Article 5 of the Charter on the ground that it has not been established hat:

- protection against acts of anti-union discrimination and interference is effectively ensured;
- the right of the police to organise is guaranteed.

Article 6 - Right to bargain collectively

Paragraph 1 - Joint consultation

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

The Committee previously found the situation to be in conformity with Article 6§1 of the Charter and further requested that the Government provides more detailed information in its next report on the content of joint consultation.

The report cites Article 19 of the Labour Code which provides that joint consultation ("social partnership") shall include, inter alia, the elaboration of drafts of collective labour contracts and collective agreements, the examination of draft normative documents and proposals regarding social-economic reforms, the settlement of collective labour conflicts; and other issues regarding working relations.

Conclusion

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

Article 6 - Right to bargain collectively

Paragraph 2 - Negotiation procedures

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

The Committee previously deferred its conclusion pending information updated information on the number of collective agreements in force and the number of employees (approximately) covered by collective agreements.

According to the report 15 collective agreements have been concluded at the national level (7 which are basic) since 2004.

In 2017, 4 collective agreements were concluded at the branch and territory level, in 2017 at the enterprise / unit level 533 agreements were registered.

The Committee notes that there has been a significant decrease in the number of collective agreements being concluded at the both branch/territory level and unit level. It asks the Government to provide more details on the scope of the decrease and the percentage of workers covered by the mentioned agreements. The report states that no information is available on the proportion of the workforce covered by a collective agreement. However the Committee notes from information available from the ILO that the collective agreement coverage rate was approximately 40% in 2016.

The Committee requests the next report to provide information on measures taken to promote collective bargaining.

Conclusion

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

Article 6 - Right to bargain collectively

Paragraph 3 - Conciliation and arbitration

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

The Committee refers to its previous conclusions for a description of the conciliation procedures (Conclusions 2010, 20140).

The Committee deferred its previous conclusion pending further information as to whether recourse to arbitration was voluntary or may be instituted by one of the parties to the dispute. It also requested information on conciliation and arbitration procedures in the public sector (Conclusions 2014).

According to the report the Labour Code provides that if the parties in conflict do not reach an agreement or disagree with the decision of the Conciliation Commission, either of them is entitled to submit, within 10 working days from the date of the decision or receipt of the respective information (Art. 359(8) and (9)), a request for settlement of the conflict by the courts.

The Committee recalls that any form of recourse to arbitration constitutes a violation of Article 6§3 where domestic law allows one of the parties to defer the dispute to arbitration without the consent of the other party or allows the Government or any other authority to defer the dispute to arbitration without the consent of one party or both (Conclusions 2006, Portugal).

The Committee concludes that the situation is not in conformity with Article 6§3 of the Charter on the grounds that compulsory arbitration is permitted in circumstances which go beyond the limits set by Article G of the Charter.

The report refers to a new law on mediation which permits the parties to choose to go to mediation in the event of a conflict.

No information is provided on conciliation and arbitration in the public sector. The Committee repeats its request for this information.

Conclusion

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 6§3 of the Charter on the ground that compulsory arbitration is permitted in circumstances which go beyond the limits set by Article G of the Charter.

Article 6 - Right to bargain collectively

Paragraph 4 - Collective action

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

Collective action: definition and permitted objectives

The Committee previously examined the situation in this respect and found it to be in conformity with the Charter.

Entitlement to call a collective action

The Committee previously noted that at the national level the Confederation of Trade Unions is the only trade union entitled to call a strike at the national level, which it considered constituted a restriction on the right to strike. The Committee recalls that at the national (and branch level) only a trade union may call a strike, and that at the national level there is only one trade union.

The report provides now information on this issue therefore the Committee seeks clarification as to who may call a strike at every level.

Specific restrictions to the right to strike and procedural requirements

The Committee previously concluded (Conclusions 2014) that the situation was not in conformity with Article 6§4 of the Charter on the grounds that:

- the restrictions to the right to strike for public officials and employees in sectors such as the public administration, state security sectors and national defence do not comply with the conditions established by Article G of the Charter;
- the right to strike is denied to all employees in electricity and water supply services, telecommunication and air traffic control;
- the restrictions to the right to strike of the employees of the customs authorities did not comply with the conditions established by Article G of the Charter;
- the obligations imposed on workers on strike to protect enterprise installations and equipment do not comply with the conditions established by Article G.

The report provides no new information on the situation therefore the Committee reiterates its previous conclusion.

Consequences of a strike

The Committee previously examined the situation in this respect and found it to be in conformity with the Charter.

Conclusion

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

- the restrictions on the right to strike for public officials and employees in sectors including the public administration, state security sectors and national defence go beyond those permitted by Article G of the Charter;
- the right to strike is denied to all employees in electricity and water supply services, telecommunication and air traffic control;
- the restrictions on the right to strike of the employees of the customs authorities go beyond those permitted by Article G of the Charter;
- the obligation imposed on workers on strike to protect enterprise installations and equipment go beyond those permitted by Article G.

Article 21 - Right of workers to be informed and consulted

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

The Committee previously examined the situation and found it in conformity with the Charter subject to information being provided on certain issues.

Legal framework

The Committee has previously analysed the legal framework of the right of workers to be informed and consulted (Conclusions 2005) and found it in conformity with the Charter.

The report indicates that on June 2, 2017,(outside the reference period) the Parliament adopted the Law no. 155 on amendment and completion of the Labour Code (the Labour Code includes two new articles, Article 42 on "Information and consultation of employees" and article 197 on "Guarantees in case of reorganization of the unit , change of type of ownership or its owner"), including the transposition of **Directive 2002/14/EC** of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community and **Directive 2001/23/EC** of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.

Personal scope

In its previous conclusions (2014) the Committee asked what categories of employees (such as temporary workers, full-time workers, part-time workers, apprentices, etc.) are taken into account when calculating the number of employees covered by the right to information and consultation. In this respect the Committee reiterates its request.

Material scope

The Committee has assessed the material scope of the provisions relating to the right of workers to be informed and consulted (Conclusions 2007) and found it to be in conformity with Article 21 of the Charter.

Remedies

The report does not indicate any change to the situation as regards remedies available to workers, which the Committee has previously found to be in conformity.

The Committee recalls that the rights must be effectively guaranteed. In particular, workers must have legal remedies when these rights are not respected (Conclusions 2003, Romania). There must also be sanctions for employers which fail to fulfil their obligations under this Article (Conclusions 2005, Lithuania). It therefore asks that the next report clarify whether there is a judicial procedure available to employees, or their representatives, who consider that their right to information and consultation within the undertaking have not been respected.

Supervision

The Committee recalls that in order to effectively guarantee the workers rights there must be supervisor mechanism such as a Labour inspectorate that could provides sanctions for the violation of the provisions on access to information and consultation. It therefore also asks that the next report provides detailed information, including examples, on how such remedies are provided by the legislation and are enforced in practice.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Moldova is in conformity with Article 21 of the Charter.

Article 26 - Right to dignity in the workplace

Paragraph 1 - Sexual harassment

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

Prevention

The Committee previously noted (Conclusions 2014) that the Labour Code requires employers to take measures to prevent sexual harassment in the workplace. In response to the Committee's request for clarifications on the implementation of this obligation, the report refers to legislative amendments of 2016 (Law No. 71 of 14 April 2016) which have introduced the obligation for the employer to inform the employees that all acts of discrimination and sexual harassment are prohibited at work. Such an obligation is henceforth provided in the Law on equal opportunities (Law No. 5 of 9 February 2006, Article 10§2d) and the Labour Code: pursuant to Articles 10§2 and 199§1 of the Labour Code, as amended in 2016, the internal regulations of each employment unit shall provide for the respect of "the principle of non-discrimination, the elimination of sexual harassment and any form of denial of work". Under Article 48§2 of the same Code, employees shall be provided, for informational purposes, with a set of documents that are applicable to them, including the internal regulations of the unit. According to the report, this measure should allow the employees to be aware of the internal regulation, including as regards prevention of sexual harassment at the workplace.

In addition, the State Labour Inspectorate shall monitor the observance of the legal provisions regarding the prevention and elimination of cases of discrimination and cases of sexual harassment at the work place (Article 1§113.k of Law No. 140 of 10 May 2001, as amended in 2016). The authorities explain in the report that further measures to prevent sexual harassment can be developed and implemented at the unit level, but this falls within the individual responsibility of the employers.

The report indicates that, during the reference period, the Council on the Prevention and Elimination of Discrimination and Gender Equality (Equality Council) participated, organized and carried out several trainings for several categories of beneficiaries in order to respect the principle of equality and non-discrimination, including at the workplace.

The report also refers to measures envisaged, out of the reference period, in the framework of the National Action Plan on Human Rights for 2018-2022, concerning gender equality, domestic violence and violence against women, and in the framework of the Action Plan relating to the National Programme for the implementation of UN Security Council Resolution 1325 on Women, Peace and Security for 2018-2021. According to the report, these measures will strengthen the fight against sexual harassment, also in the workplace (see details in the report).

The Committee takes note of these measures and asks the next report to clarify whether and to what extent the social partners are consulted or involved in the implementation of measures aimed at preventing sexual harassment at work. It also asks for updated information about further prevention measures, awareness-raising campaigns etc. that have been implemented, whether in the framework of the abovementioned Action Plans or not.

Liability of employers and remedies

The Committee takes note of the information provided in the report concerning the definition of sexual harassment under Article 173 of the Criminal Code (see also Conclusions 2014) and the procedures available to complain about it (see also Conclusions 2016 on Article 26§2 and the 12th national report submitted in that context) before the Equality Council. It also notes that the Law on equal opportunities (Article 19§32), as amended in 2016, provides henceforth that gender coordinating groups shall examine cases of discrimination

based on sex, and cases of sexual harassment, at the branch level and in the decentralized structures; the law also provides that the materials accumulated in such cases be forwarded to the law enforcement bodies.

The report explains that, under the Criminal Code, sexual harassment is sanctioned by a fine (650-850 conventional units), the obligation to perform community service (140-240 hours) or imprisonment up to three years.

Harassment, including sexual harassment, in the workplace is also prohibited under the Labour Code (see Conclusions 2014), but only as a "contravention", i.e. an administrative offense, when it is committed by the employer against an employee. In response to the Committee's question concerning the employer's indirect liability, the authorities explain that the legislation in force does not expressly provide for the liability of the employer for actions of discrimination by third parties in relation to the employees of the unit or vice versa, but such liability is not excluded if the employer is recognized by the court as being guilty of violating the law in force. The Committee asks whether this means that sexual harassment perpetrated against the employer, occurring between employees or involving third parties (entrepreneurs or self-employed workers, visitors, clients, etc.) as perpetrators or victims is identified as such and sanctioned only in the framework of the criminal law on sexual offenses or also under the Code of Contravention.

The report explains that the Code of Contravention provides for sanctions for violations of equality in the workplace, as defined by the Equality Law, including harassment. It also recalls that the Equality Council is responsible inter alia for ascertaining violations of equality – including harassment – in the field of labour (Article 54§2 of the Code of Criminal Procedure). The sanctions for the employer include a fine (78-90 or 150-240 conventional units) and the harasser can be suspended from his/her position or be prohibited to carry out certain activities for a period between three months and one year. The report points out however that it is for the courts to decide the sanction, after the Equality Council has made a finding of discrimination. During the reference period, the Equality Council examined 102 complaints alleging discrimination at the workplace and issued four decisions concerning harassment, but not sexual harassment.

The report explains that, under the Equality Law, any person who considers themself to be a victim of discrimination has the right to address the court (Article 18), without first submitting a complaint to the Equality Council, and is exempted from the payment of the state tax (Article 21). The request for summons may be filed up to one year from the date upon which the crime was committed or from the date on which the person could have learned of their deed.Trade unions or public associations in the field of the promotion and protection of human rights may also submit actions in court for the protection of persons who consider themselves victims of discrimination.

The Committee refers to its previous conclusions (Conclusions 2016 on Article 26§2 and the 12th national report submitted in that context) and notes that Article 17 of the Equality Law provides for the victims' protection from reprisals. In particular, at the request of the victim of discrimination, the dissemination of personal information may be forbidden and law provides for special confidentiality rules in respect of recording, storage and use of personal information on victims of discrimination.

The Committee notes from the report that, according to a study conducted in 2018 (out of the reference period), every fifth woman employed in the Republic of Moldova is subject to subtle forms of sexual harassment at work (look, inappropriate gestures, language of sexual harassment etc.) and 4 out of 100 women face serious forms of harassment. The Committee takes note of the data provided in the report and of the fact that the number of registered sexual harassment offenses has increased from 5 cases in 2011 to 23 in 2016. Between September 2010 and end of June 2015, the courts examined 18 criminal cases of sexual harassment, 9 of which resulted in a conviction, 7 were dropped or resulted in acquittal, and 2 were still pending.

Burden of proof

In response to the Committee questions (Conclusions 2005, 2007, 2010 and 2014) the report indicates that, pursuant to Article 19 of the Equality Law, the person who addresses the court must present facts that allow for the presumption of the existence of discrimination. At the same time, the burden of proving that the facts do not constitute discrimination lies with the respondent, except in the case of facts that would entail criminal liability.

Damages

The Committee notes from the information provided in the report that any person who considers themself to be a victim of discrimination has the right to request the courts to find that their rights have been violated, to order the violation to come to an end and that the situation prior to the violation be restored; to grant reparation of the material and moral damage suffered, as well as the recovery of the costs; and to annul the act that led to the discrimination.

According to the information previously provided under Article 26§2 (see Conclusions 2016 on Article 26§2 and the 12th national report submitted in that context), a worker who has been unfairly transferred or dismissed for reasons related to discrimination is entitled, under Article 90 of the Labour Code, to a compensation at least equal to the worker's average salary for the whole period of forced absence from work, plus the reimbursement of the procedural expenses and a compensation for moral damage. The amount granted in respect of moral damage is decided by the judge and cannot be less than the average monthly salary of the worker, and the law does not provide for a ceiling. The judge can also award a compensation for material and moral damage under Article 1398 of the Civil Code.

Under Article 89 of the Labour Code, the worker who has been unfairly transferred or dismissed for reasons related to discrimination can also be reinstated in his/her post; in alternative to the reinstatement, the parties can opt for an additional compensation, which will then not be less than three months' average salaries.

Conclusion

The Committee concludes that the situation in the Republic of Moldova is in conformity with Article 26§1 of the Charter.

Article 26 - Right to dignity in the workplace

Paragraph 2 - Moral harassment

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

Prevention

The Committee previously noted (Conclusions 2014) that Article 7§4 of the Law No. 121/2012 on measures to guarantee equality requires employers to post the rules ensuring respect for equal opportunities and equal treatment in the workplace in places that would be accessible to all employees. It considered however that this was not an appropriate and sufficient measure under Article 26§2 of the Charter to combat moral (psychological) harassment in the workplace.

It notes from the information contained in the report that the Law on equal opportunities (Law No. 5 of 9 February 2006, Article 10§21) and the Labour Code have been amended in 2016 (Law No. 71 of 14 April 2016), with the introduction of an obligation on the employer to inform the employees that all acts of discrimination are prohibited at work. Pursuant to Articles 10§2 and 199§1 of the Labour Code, as amended in 2016, the internal regulations of each employment unit shall henceforth provide for the respect of "the principle of non-discrimination, the elimination of sexual harassment and any form of denial of work". Under Article 48§2 of the same Code, the employee shall be provided, for information purposes, with a set of documents that are applicable to him/her, including the internal regulations of the unit. The Committee asks the next report to clarify whether this obligation also applies in respect of moral (psychological) harassment and whether the State Labour Inspectorate monitors its implementation.

The report indicates that, during the reference period, the Council on the Prevention and Elimination of Discrimination and Gender Equality (Equality Council) participated, organized and carried out several trainings for several categories of beneficiaries in order to respect the principle of equality and non-discrimination, including at the workplace.

The Committee asks the next report to clarify whether and to what extent the social partners are consulted or involved in the implementation of measures aimed at preventing moral (psychological) harassment at work. It also asks for updated information about further prevention measures, awareness-raising campaigns etc. that have been implemented.

Liability of employers and remedies

The Committee refers to its previous conclusions (Conclusions 2014 and 2016), where it noted that the Labour Code defines the notion of dignity at work and prohibits all direct or indirect discrimination against employees. It also noted the adoption of Law No.121 on measures to ensure equality, which explicitly prohibits harassment (Article 7 of the Law).

Under the Labour Code (see Conclusions 2014), harassment constitutes a "contravention" when it is committed by the employer against an employee. In response to the Committee's question, the authorities explain that the legislation in force does not expressly provide for the liability of the employer for actions of discrimination by third parties in relation to the employees of the unit or vice versa, but such liability is not excluded if the employer is recognized by the court as being guilty of violating the law in force. The Committee asks what remedies are available in cases of moral (psychological) harassment perpetrated against the employer, occurring between employees or involving third parties (entrepreneurs or self-employed workers, visitors, clients, etc.) as perpetrators or victims.

The report states that the Code of Contravention provides for sanctions for violations of equality in the workplace, as defined by the Equality Law. This includes harassment. The report also states that the Equality Council is responsible inter alia for ascertaining violations of equality – including harassment – in the field of labour (Article 54§2 of the Code of

Criminal Procedure). The sanctions for the employer include a fine (78-90 or 150-240 conventional units) and the harasser can be suspended from his/her position or be prohibited to carry out certain activities for a period between three months and one year. The report points out however that it is for the courts to decide the sanction, after the Equality Council has found a discrimination, which can be an obstacle for the victims. During the reference period, the Equality Council examined 102 complaints alleging discrimination at the workplace and issued four decisions concerning harassment.

The report explains that, under the Equality Law, any person who considers themself to be a victim of discrimination has the right to address the court (Article 18), without first submitting a complaint to the Equality Council, and is exempted from the payment of the state tax (Article 21). The request for summons may be filed for one year from the date the crime was committed or from the date on which the person could have learned of their deed.Trade unions or public associations in the field of the promotion and protection of human rights may also submit actions in court for the protection of persons who consider themselves victims of discrimination. The Committee refers to its previous conclusions (Conclusions 2016 and the 12th national report submitted in that context) and notes that Article 17 of the Equality Law provides for the victims' protection from reprisals. In particular, at the request of the victim of discrimination, the dissemination of personal information may be forbidden and law provides for special confidentiality rules in respect of recording, storage and use of personal information on victims of discrimination.

The Committee takes note of the information provided in the report concerning the protection of honor, dignity and professional reputation under Article 16 of the Civil Code, and the remedies applying in this respect, including in case of defamation through mass media.

Burden of proof

In response to the previous questions of the Committee (Conclusions 2005, 2007, 2010 and 2014) the report indicates that, pursuant to Article 19 of the Equality Law, the person who addresses the court must present facts that allow for the presumption of the existence of discrimination. At the same time, the burden of proving that the facts do not constitute discrimination lies with the respondent, except in the case of facts that would entail criminal liability.

Damages

The Committee refers to its previous conclusions (Conclusions 2016, see also Conclusions 2018 on Article 26§1) where it noted that employees who have been unlawfully dismissed may be reinstated, and may be awarded compensation for pecuniary and non pecuniary loss. It also noted that there are no limits to the amount of compensation that may be awarded for non pecuniary loss. As the situation has not changed, it maintains its finding of conformity in this respect.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in the Republic of Moldova is in conformity with Article 26§2 of the Charter.

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

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

Types of workers' representatives

The Committee understands that, in addition to trade union representatives, there are other kinds of workers' representatives in Moldova, who enjoy protection when participating in collective bargaining. In order to obtain a better picture of the situation, the Committee would like the next report to provide more detailed explanation on the existing types of workers' representatives and their functions, including outside collective bargaining.

Protection granted to workers' representatives

The Committee has already assessed the protection afforded to trade union representatives under the Labour Code in its previous conclusions (Conclusions 2005, 2007 and 2014). It has noted that the protection extends on other workers' representatives, insofar as they were involved in collective bargaining.

In its previous conclusions (Conclusions 2010, 2014 and 2016) the Committee found the situation in non-conformity with Article 28 of the Charter, as it had not been demonstrated that workers' representatives other than trade union representatives were guaranteed protection against dismissal and prejudicial acts short of dismissal when exercising their functions outside the scope of collective bargaining. The Committee recalls that prejudical acts may entail, for instance, denial of certain benefits, training opportunities, promotions or transfers, discrimination when issueing lay-offs or assigning retirment opnions, being subcjected to shifts cut-dwn or any other taunts or abuse. Despite its repeated requests, the Committee still finds no information in the report on these aspects.

It notes, however, from other sources (2018 ITUC Global Rights Index) that the legal framework was amended in 2017 and asks the next report to provide an update on all developments. Meanwhile, it considers that it has not been established that the situation is in conformity with the Charter on this point.

Facilities granted to workers' representatives

The Committee has assessed the facilities accorded to trade union representatives under the Labour Code in its previous conclusions (Conclusions 2005, 2007 and 2014) and concluded (Conclusions 2010, 2014 and 2016) that their scope was not in conformity with Article 28 of the Charter, as they were provided solely to trade union representatives.

No new information was submitted in this respect and thus the Committee reiterates its conclusion.

Conclusion

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 28 of the Charter on the grounds that:

- it has not been established that workers' representatives other than trade union representatives are not afforded protection against dismissal and other prejudicial acts when exercising their functions outside the scope of collective bargaining;
- facilities identical to those afforded to trade union representatives are not made available to other workers' representatives.

Article 29 - Right to information and consultation in procedures of collective redundancy

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

The Committee has already considered the situation regarding the right to information and consultation in collective redundancy procedures in its previous conclusion (Conclusions 2014), when it deferred its conclusion.

Definition and scope

In its previous conclusion, the Committee asked what form the dialogue between employers and workers' representatives took in collective redundancy consultations.

In reply, the report states that, under Article 88 (1) (i) of the Labour Code, if an undertaking's reorganisation or liquidation entails mass job cuts, the employer is required to inform the relevant trade unions, in writing, at least three months in advance, and to start negotiations to ensure that employees' rights and interests are protected.

Preventive measures and sanctions

In its previous conclusion, the Committee asked what sanctions existed if employers failed to notify worker representatives about planned redundancies. It also asked for information on preventive measures to ensure that redundancies did not take effect before the employer's obligation to inform and consult worker representatives had been fulfilled.

In reply, the report states that, again under Section 16(3) of the Trade Union Act, a liquidation, a total or partial cessation of production decided on by the employer, a large-scale reduction in employment or a deterioration in working conditions can only be implemented or introduced if the relevant trade unions have been informed at least three months in advance and collective bargaining has been initiated on means of protecting employees' rights and interests.

The report also states that Article 55 of the Offences Code establishes penalties for non-compliance with the legislation entitling worker representatives to be informed and consulted about collective redundancy proceedings. In particular there are fines for breaches of labour law and of occupational health and safety legislation.

Conclusion

The Committee concludes that the situation in the Republic of Moldova is in conformity with Article 29 of the Charter.