March 2018

# European Social Charter

## European Committee of Social Rights

## Conclusions 2018

# SLOVAK REPUBLIC

*This text may be subject to editorial revision.*

The following chapter concerns the Slovak Republic which ratified the Charter on 23 April 2009. The deadline for submitting the 8th report was 31 October 2017 and the Slovak Republic submitted it on 15 November 2017.

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 Slovak Republic has accepted all provisions from the above-mentioned group.

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

The conclusions relating to the Slovak Republic concern 23 situations and are as follows :

– 10 conclusions of conformity : Articles 2§3, 2§4, 2§6, 2§7, 5, 6§1, 6§3, 21, 22 and 26§1,

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

In respect of the 7 other situations related to Articles 2§5, 4§1, 4§3, 6§2, 26§2, 28 and 29, 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 Slovak Republic under the Charter. The Committee requests the authorities to remedy this situation by providing the information in the next report.

* * *

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 Slovak Republic.

In the previous conclusion (Conclusions 2014), the Committee noted that, in a single twenty-four hour period, it was impossible to schedule working time in a way that met both conditions: the maximum of twelve hours of uninterrupted working time and the eight hour break between shifts. It found that the situation was not in conformity with Article 2§1 of the Charter on the ground that in certain occupations which fell outside what could be considered to be extraordinary or exceptional circumstances, up to sixteen hours could be worked in a twenty-four hour period.

The Committee takes note of information supplied by the representative of the Slovak Republic to the Governmental Committee (report on Conclusions 2014) and of those included in the report. It therefore clarifies its reasoning. On the one hand, it notes from the report that Article 87§4 of the Labour Code limits the working day to a maximum of twelve hours, to which there can be no exceptions. Under Article 92 of the Labour Code, employers are required to organise working time in such a way as to ensure that between the end of one shift and the start of the next one employees are entitled to a minimum of at least twelve continuous hours of rest in each twenty-four hour period. This rest period may be reduced to eight hours for urgent actions made to avert a threat endangering the lives or health of employees or in very exceptional circumstances (see Conclusions 2014, Article 2§1). However, according to the report, even if the rest period has been reduced to eight hours, this does not mean that it becomes possible to work 16 hours, because the aforementioned Article 87§4 of the Labour Code only permits a maximum of twelve hours worked in any twenty-four hour period. The report also states that the maximum hours of work are twelve hours for employees with an unequal distribution of working hours, and eight hours for ones with an equal distribution.

On the other hand, the Committee also notes that Article 97(5) of the Labour Code authorises employers to impose overtime work in transitory and urgent cases of pressure of work or on grounds of public interest. However, a rest period between two periods of work may not be reduced to fewer than eight hours when overtime is imposed. Article 97(10) of the Code restricts maximum authorised annual hours of overtime worked to an overall total of 400 hours. Moreover, under Article 97(6), employees may not work an average of more than eight overtime hours per week for a maximum period of four months – or a maximum period of twelve months if an agreement in this respect has been concluded between the employer and employee representatives. The Committee asks for information in the next report on the legal provisions prohibiting employers from asking employees to work an excessive number of hours of overtime. It also asks for detailed and precise information on the “public interest” grounds that permit employers to impose overtime work.

In the light of the foregoing, the Committee finds that there are inconsistencies in the provisions of the Labour Code and that the legal framework does not clearly define how much scope is left to collective bargaining and individual negotiations, thus failing to offer sufficient safeguards for compliance with Article 2§1. The Committee therefore finds that the situation is not in conformity with Article 2§1 of the Charter because of the excessive length of weekly working time permitted and the lack of adequate safeguards.

The Committee notes from EUROSTAT statistics that the number of hours worked per week by persons in full-time employment fell slightly, from 41.9 in 2013 to 41.7 in 2016 (compared with 37.84 in 2003 and 38 in 2004, Conclusions 2007). According to OECD statistics, the average annual number of hours worked per employee was 1772 in 2013 and 1740 in 2016.

In its previous conclusion, the Committee asked what rules applied to on-call service and whether inactive periods of on-call duty were considered to be rest periods in whole or in

part. In answer, the report states that inactive periods of on-call duty are considered to be part of normal working time. The Committee considers that this situation is in conformity with the Charter.

However, the Committee notes from the European Commission working document entitled "Detailed report on the implementation by Member States of Directive 2003/88/EC concerning certain aspects of the organisation of working time accompanying the document [COM(2017)254 final]" of 26 April 2017 (SWD(2017)204 final) that in Slovakia "on-call time at the workplace does not appear to be fully counted as working time for several groups of workers in public service", such as members of the police force, prison officers, the fire fighting and rescue corps and customs officers, pursuant to Law No. 73/1998 Coll. on the public duties of members of the police force, the Slovak intelligence service, and the corps of judicial police, prison wardens and railway police, Law No. 200/1998 Coll. on the public duties of customs officers, Law No. 154/2001 Coll. on prosecutors and legal trainees of the prosecution service, and Law No. 315/2001 Coll. on the fire fighting and rescue corps. The Committee asks for information on this subject in the next report, particularly the reasons for excluding these categories of workers from the scope of the general rules.

Lastly, the Committee asks for information in the next report on the work of the labour inspectorate in monitoring compliance with the regulations on working hours, including overtime, and on the number of violations found and the fines imposed.

*Conclusion*

The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 2§1 of the Charter on the ground that the length of the authorized working week is excessive and that the legal guarantees are insufficient.

**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 Slovak Republic.

In previous conclusions (Conclusions 2014 and XIX-3 (2010)), the Committee concluded that the situation in the Slovak Republic was incompatible with Article 2§2 of the Charter on the ground that work performed on a public holiday was not adequately compensated, when the minimum standards of compensation were applied. It asked whether public holidays (whether or not classified as non-working days) were paid and, in particular, whether in all cases where compensatory time off was granted, employees working on public holidays were also entitled to their regular pay. It also asked which categories of employee were concerned by the minimum 100% wage or salary bonus under Law No. 553/2003 and which categories were covered by the minimum 50% bonus.

In reply, the report states that public holidays are fully paid. Employees working on public holidays are also entitled to their usual wage.

Section 1 of Law No. 553/2003 identifies the employee categories concerned by the minimum 100% bonus, which include, in particular, those employed by:

- a) state institutions;
- b) institutions financed from state, municipal or autonomous regional budgets;
- c) state, municipal or autonomous regional contributory institutions;
- d) municipalities and autonomous regions;
- e) state funds;
- f) public and state universities;
- g) the Broadcasting and Retransmission Council;
- h) the Slovak Academy of Sciences;
- i) educational institutions and facilities;
- j) other employers specified in separate legislation.

The Committee notes that employee categories other than those referred to above are entitled to the 50% bonus.

In the light of the available information, the Committee again finds that the situation that it found previously not to be in conformity with the Charter (Conclusions XIX-3 (2010) and 2014) remains unaltered because compensation for work carried out on public holidays is inadequate when the minimum rates of compensation apply.

*Conclusion*

The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 2§2 of the Charter on the ground that work performed on a public holiday is not adequately compensated, when the minimum standards of compensation are applied.

**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 Slovak Republic.

It notes that the situation which it previously found to be in conformity with the Charter (Conclusions 2014) remained the same during the reference period, and therefore reiterates its finding of conformity. The Committee asks for updated information in the next report on any changes to the legal framework concerning annual holidays with pay.

*Conclusion*

The Committee concludes that the situation in the Slovak Republic is in conformity with Article 2§3 of the Charter.

**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 Slovak Republic.

The Committee notes that, according to the report, there was no change in the situation that it previously found to be in conformity with the Charter (Conclusions 2014) over the reference period.

However, the Committee refers to its examination under Article 3§2 of the Charter, in which it has highlighted certain significant gaps in the information provided under that article concerning the elimination of risks in dangerous or unhealthy occupations. The Committee would point out that the first part of Article 2§4 of the revised Charter requires states to eliminate risks in inherently dangerous or unhealthy occupations. This part of Article 2§4 is closely linked to Article 3 of the Charter (right to safe and healthy working conditions, see above), under which states undertake to pursue policies and take measures to improve occupational health and safety and prevent accidents and damage to health, particularly by minimising the causes of hazards inherent in the working environment. In light of this, the Committee asks that the next report provide comprehensive and updated information on the effective implementation of measures aimed at eliminating or reducing occupational risks, in particular those related to inherently dangerous or unhealthy sectors and activities.

*Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in the Slovak Republic is in conformity with Article 2§4 of the Charter.

**Article 2 - Right to just conditions of work**

*Paragraph 5 - Weekly rest period*

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

In the previous conclusion (Conclusions 2014), the Committee found that the situation in the Slovak Republic was not in conformity with Article 2§5 of the Charter on the ground that the weekly rest entitlement could be deferred for a period exceeding twelve consecutive working days.

The Committee notes that the report confirms that it is possible, in theory, for a person to work for two weeks, in other words more than twelve days, before being entitled to a rest period. However, the report also states that Article 93 of the Labour Code is cumulative in nature. This means that Article 93§5 is only applicable if the provisions of the preceding four paragraphs cannot be applied (see Conclusions 2014, Article 2§5), on account of an employee's specific responsibilities. The Committee notes from the report that the conditions governing such adjustments to the weekly rest period are very strict and are only applicable in exceptional circumstances (for example, a threat to public safety). It also states that the social partners have never asked for repeal of this provision of the Labour Code.

The Committee asks for detailed information in the next report on the nature of the exceptional circumstances referred to in the report, other than public safety. It also asks whether the labour inspectorate monitors situations arising from Article 93§5 and, if so, how frequently it identifies violations of this article.

*Conclusion*

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

**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 Slovak Republic.

It notes that the situation which it previously found to be in conformity with the Charter (Conclusions 2014) remained the same during the reference period, and therefore reiterates its finding of conformity.

*Conclusion*

The Committee concludes that the situation in the Slovak Republic 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 Slovak Republic.

In the previous conclusion (Conclusions 2014), the Committee found that the situation in the Slovak Republic was in conformity with Article 2§7 of the Charter and asked whether and in what circumstances employees performing night work could be transferred to daytime posts.

In reply, the report states that Article 55 of the Labour Code requires employers to transfer night workers to daytime duties when:

- the individuals concerned are unable to carry out the work in question on account of their health, or following a medical examination, or owing to the occurrence or risk of an occupational disease;
- pregnant or nursing mothers or the mothers of children aged under nine months are performing work that is prohibited for these categories of women or that puts them at risk according to a medical examination;
- the transfer is deemed necessary following a medical examination to protect the health of other persons from infectious diseases;
- the transfer is the subject of a court ruling.

The Committee also notes from the report that employers may transfer night workers to different types of work with the worker's consent. It finds that the situation is in conformity in this regard.

On the other two points, the Committee refers to its previous conclusion (Conclusions 2014), in which it noted that there were regular medical examinations, including a check-up prior to employment on night work, and that employers had to discuss the organisation of night work with their employees' representatives regularly and notify the labour inspectorate department concerned and employee representatives of the relevant arrangements, if so requested.

*Conclusion*

The Committee concludes that the situation in the Slovak Republic is in conformity with Article 2§7 of the Charter.

**Article 4 - Right to a fair remuneration**

*Paragraph 1 - Decent remuneration*

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

According to the report, the minimum monthly wage in 2016 was € 405 (or € 4 860 gross per year), and € 355.01 net of social contributions and tax deductions (or € 4 260.12 net per year). The average monthly wage of a single employee was € 912 gross (or € 10 944 per year) and € 699.96 net (or € 8 399.52 per year). The minimum net wage represented about 50.72% of the average net wage (compared with 45.9% in 2013).

The Committee notes the efforts made by the Slovak Republic to raise the minimum wage. However, it notes that in 2016 the minimum wage only corresponded to approximately 50.72% according to the data provided in the report.

The Committee points out that, to ensure a decent standard of living from the standpoint of Article 4§1 of the Charter, earnings must exceed the minimum threshold, set at 50% of the net average wage. This is the case where the net minimum wage is above 60% of the net average wage. Where the net minimum wage is between 50% and 60% of the net average wage, it is for the State party to establish that this wage permits a decent standard of living (Conclusions XIV-2 (1998), statement of interpretation of Article 4§1). It asks for up-to-date information in the next report on the percentage of employees receiving the minimum wage, and the level of minimum wages set by collective agreements. It also asks for information on the conditions and amounts of social assistance paid to workers on low income.

In its previous conclusion (Conclusions 2014), the Committee asked for data and information on wages paid under the main collective agreements, such as the agreement in the metalwork industry, and in atypical employment, such as family employment or home, domestic and seasonal work. The report does not provide any information on this subject, so the Committee repeats its request and, in the meantime, reserves its position on this point.

The Committee notes from the report that all persons who, because of their low income, lack sufficient resources can apply to the state social assistance system. They could thereby be eligible for material needs, housing and activation allowances (see Conclusions 2017, Article 13§1) and so on. The Committee observes that such benefits are intended to offer temporary relief, even though they may be paid over long periods. It notes the following information from the MISSOC data base:

- in 2016, the material needs allowance (basic level) was about €61.60 per month for a single person;
- the activation allowance (additional benefit) was €63.07 per month for persons with an income equivalent to the minimum wage;
- the housing allowance (additional benefit) was €55.80 per month for persons living alone.

  A one-time allowance is intended to cover exceptional expenses of households receiving the material needs allowance. The amount varies according to expenditure actually incurred, up to a limit of three times the minimum subsistence income (€198.09).

  The Committee notes that the combined total of the material needs (€ 61.60), housing (€ 63.07) and activation (€ 55.80) allowances represented € 180.47 per month.

  Having regard to this information, the overall income of a full-time, childless employee on the minimum income who was eligible for all these benefits and allowances would represent about 76.67% of average income.

  The Committee asks the next report to indicate what minimum level of resources enables workers to apply for social benefits.

*Conclusion*

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

**Article 4 - Right to a fair remuneration**

*Paragraph 2 - Increased remuneration for overtime work*

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

In its previous conclusions (Conclusions 2014 and XIX-3 (2010)), the Committee concluded that the situation was not in conformité with Article 4§2 of the Charter on the ground that the time off to compensate overtime work was not sufficient.

There has been no change to this situation therefore the Committee reiterates its previous finding of non-conformity.

*Conclusion*

The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 4§2 of the Charter on the ground that the time off to compensate overtime work is not sufficient.

**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 Slovak Republic.

***Legal basis of equal pay***

The Commitee refers to its previous Conclusion under Article 4§3 (Conclusion, 2014), in which it considered the existing legislation to be adequate to guarantee the principle of equal treatment in employment in the field of remuneration. The report does not contain any further information on this point.

***Guarantees of enforcement and judicial safeguards***

Sections 13 and 14 of the Labour Code further strengthen the protection against gender discrimination by providing that: i) employees who are discriminated against have a right to challenge the employer's failure to put a halt to the discriminating behaviour before national courts, including by filing a demand for injunctive relief; ii) the burden of proof lies with the employer and iii) employees are protected against retaliatory measures, in particular against dismissal. Moreover, discriminatory dismissals are considered void. This information was considered by the Committee in its Conclusion XVI-2 on Article 1 of the Additional Protocol and in its Conclusion on Article 4§3 of 2014. It asked then to the Government about the rules that apply to compensation for victims of wage discrimination.

The report states that the compensation shall amount at least to the actual wage difference and that courts can make the compensation higher in its ruling if they find out that increase is justified. The Committee recalls that a victim of pay discrimination is entitled to compensation for both pecuniary and non-pecuniary damage. The Committee therefore asks for clarification in next report on whether the law entitles victims of discrimination to compensation for moral damage.

The Committee requests further information on cases concerning fair remuneration, more precisely on the complaints received and the violations detected by labour inspectors, as already asked for in its Conclusions under Article 20 (Conclusions, 2016). It also asks information on the concrete measures taken by the labour inspectors to address equal pay, including possible warnings or sanctions that can be applied.

***Methods of comparison***

With regard to pay comparisons, there is no information in the report submitted. The Committee noted in its previous Conclusions under Article 20 (Conclusions, 2016) that in cases when several companies are covered by a collective agreement or higher-level collective agreement, it is up to the given companies and the respective representatives of their employees and employers to decide on the nature of pay comparison within these companies. The representatives of employees and employers are free to negotiate all the details of this comparison. In the former Conclusions under Article 4§3 (Conclusion, 2014), the Committee noted that pay comparisons are encouraged. The Committee therefore reiterates this question and asks for informationon whether the law prohibits discriminatory pay arising out of statutory regulation or collective agreements, as well as,whether 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***

Concerning the unadjusted pay gap, it stood at 21.5% in 2012 an at 19% in 2016, which is above the average in the European Union . The Committee had already asked about the measures taken by the State to improve the quality and coverage of wage statistics.The

report does not provide relevant information on this, and therefore the Committee reiterates its question.

***Other measures***

The Committee had asked in its previous cycle about the measures taken by the State to narrow the pay gap, including measures to ensure that more attention is paid to equal pay for women and men in national action plans for employment. There is no information on this submitted to the Committee. The Committee reiterates its question and asks what measures are taken to guarantee the equal pay for work of equal value in practice, including on the adoption of any strategy in this respect.

*Conclusion*

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

**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 Slovak Republic.

In its previous conclusion (Conclusion 2014), the Committee held that the situation in the Slovak Republic was not in conformity with Article 4§4 of the Charter on the ground that periods of notice of dismissal on economic, health or any other grounds were not reasonable beyond five years of service.

The report states that severance pay is an additional compensation for employees who have been given a notice of dismissal. Regarding the ground of non-conformity, the report states that such an employee is given a three months' notice period and is in addition entitled to severance pay of at least two monthly wages .

The Committee refers to its previous conclusion in which it noted that there is no right to severance pay upon dismissal related to grounds of conduct or performance. It also recalls that in case of termination of employment on grounds other than dissolution or relocation of the business; redundancy arising from changes in duties, technical equipment, organisation or reduction in staff or inability to work caused by the loss of health fitness, the notice period is one month (Article 62§2 of the Labour Code) and at least two months after one or more years of service (Article 62§4 of the Labour Code). The Committee concludes that the situation is not in conformity with Article 4§4 of the Charter for employees that have at least five years of service.

In its previous conclusion (Conclusions 2014), the Committee held that the three days' notice periods on dismissals during the probationary period were not reasonable.

The report indicates that the provision which allowed the extension of the probationary period up to nine months was abolished. It also notes that the duration of the probationary period is now three months for all workers and six months for highest managing positions. No possibility for extension of the duration of probationary period is provided. Moreover, the Committee notes that the period of three days' notice is inadequate with regards to Article 4§4 for workers with more than three months service.

The Committee asks that the next report indicates the notice periods and/or severance pay applying to termination of employment on grounds other than dismissal, such as death of the employer and bankruptcy.

*Conclusion*

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

- notice periods in cases of dismissal on grounds of conduct and performance and certain other grounds are not reasonable for employees with more than five years of service;
- the notice period applicable to dismissal during the probationary period is not reasonable for workers with more than three months of service.

**Article 4 - Right to a fair remuneration**

*Paragraph 5 - Limits to deduction from wages*

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

The Committee has previously (Conclusions 2014) concluded that the situation was not in conformity with Article 4§5 of the Charter on the grounds that workers may waive their right to limitations on deductions from wages and that after all authorized deductions, the wages of workers with the lowest pay do not enable them to provide for themselves or their dependants.

There have been no changes to the limits set by the relevant legislation to the level of deduction. Article 131§3 of the Labour Code, allowing further wage deductions than those defined by laws, regulations, collective agreements and arbitration awards, should be interpreted in relation to regulations according to which only one third of the net wage can be deducted. The employer may, however, make further deductions from the employee's wage upon the emoloyee's written consent or when required by other regulations. The Committee recalls that, under Article 4§5 of the Charter, employees may not waive their right to the restriction on deductions from wages and the way in which such deductions are determined should not be left to the discretion of the parties to the employment contract (Conclusions 2005, Norway). The Committee has also already previously found (Conclusions 2014) that the unattachable portion of the one third of wage set was too low to protect a wage level sufficient to ensure subsistence for the employee and his/her dependants. The Committee, therefore, reiterates its conclusion of non-conformity.

The report does not provide the requested information on limits applied to other grounds of deductions, such as criminal or disciplinary fines, compensation for wages in kind, assignment of wages and decline in business. The Committee, therefore, reiterates its questions.

*Conclusion*

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

- workers may waive their right to limitations on deductions from wages;
- after all authorised deductions, the wages of workers with the lowest pay do not enable them to provide for themselves or their dependants.

## Article 5 - Right to organise

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

The Committee examined the situation with regard to trade union law in its previous conclusion (forming trade unions and employers' organisations, freedom to join or not to join a trade union, trade union activities and representativeness, personal scope, Conclusions 2014). It will therefore only consider recent developments and additional information.

### *Representativeness*

The Committee previously requested information on the implications of trade unions meeting the representativeness criteria (Conclusions 2014).

According to the report associations which meet the criteria to be considered a representative association, are automatically members of the Economic and Social Council (the highest tripartite body approving all legislative proposals, strategies, etc.). Associations which do not meet the criteria for representativeness are able to function independently, but they are not members of the Economic and Social Council. If these smaller associations wish to submit a proposal to the Government through the Economic and Social Council, they have to do that through the most representative organisations which are members of the Council.

The Committee takes note of this information and seeks confirmation that minority trade unions may still exercise all other trade union functions and asks whether they may conclude company level collective agreements.

### *Personal scope*

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 the Slovak Republic is in conformity with Article 5 of the Charter.

**Article 6 - Right to bargain collectively**

*Paragraph 1 - Joint consultation*

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

The Committee previously found the situation to be in conformity with Article 6§1 of the 1961 Charter but requested further information on certain issues.

According to the report the consultations held within the Economic and Social Council take place at the national level between the representatives of the government, social partners and the Association of Towns and Cities of Slovakia. All parties can initiate discussions on topics of their interest. In addition to the Economic and Social Council, other consultative bodies of the Government include: the Legislative Council, the Government´s Council for Human Rights, National Minorities and Gender Equality, Council of the Slovak Republic for Vocational Education and Training, the Government´s Council for Partnership Agreement for the Period 2014-2020, and the Government´s Council for the Rights of the Elderly and Adjustment of Public Policies to the Ageing of the Population.

The Committee asks again for information on consultation in the public sector.

*Conclusion*

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

In 2014, the Act 416/2013 Coll. entered into force altering the way which high level collective agreements are extended. Extension of higher level collective agreements is now possible even without the consent of the employer affected by the extension. The Ministry of Labour, Social Affairs and Family of the Slovak Republic will extend a higher level collective agreement to other employers if at least one of the contracting parties of the original higher level collective agreement submits a proposal for extension. This extension is possible if the employers bound by this collective agreement employ a higher number of workers in the given industry branch than employers in the same branch that are not covered by this collective agreement.

In previous conclusions (Conclusions XVIII-1, XX-3), the Committee took note of the comments submitted by the Confederation of Trade Unions of the Slovak Republic through a letter dated 28 July 2005 stating that many employers' associations have been transformed into new legal entities not falling within the scope of Act No. 83/1990 Coll., thereby avoiding their duty to bargain collectively under the said provisions.

The Committee requested that the Government provide comments on this situation. Since the report does not provide any information in this regard, the Committee reiterates its request.

In accordance with the new act (see above), 5 master level collective agreements were extended in 2014. In these five cases, two of the extension proposals came from both contracting parties of the original collective agreement, while the remaining three proposals came from the trade unions.

The Committee recalls that it had previously concluded that the situation was not in conformity with Article 6§2 on the grounds that it was estimated that only 30% of the total number of employees are covered by collective master agreements in the Slovak Republic and that therefore that voluntary negotiations were not sufficiently promoted in practice.

According to the report in 2014, 20 master level collective agreements have been concluded, while in 2013 only 14 were concluded. This shows that collective bargaining is steadily rising and is promoted in the Slovak Republic, which is also proved by the fact that in 2014, the number of workers who were covered by a higher level collective agreement was increased by 44.12%. The Committee asks the next report to indicate approximately the total proportion of workers covered by a collective agreement. Meanwhile it defers its conclusion

*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 Slovak Republic.

The Committee notes that there have been no changes to the situation, which it previously considered to be in conformity with Article 6§3 of the Charter.

*Conclusion*

The Committee concludes that the situation in the Slovak Republic is in conformity with Article 6§3 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 Slovak Republic.

***Collective action: definition and permitted objectives***

The Committee previously sought confirmation that strikes outside the context of collective bargaining are permitted, the report confirms that they are.

***Entitlement to call a collective action***

The Committee has previously examined the situation under this heading and found it to be in conformity with the Charter (Conclusions XIX-3 (2010), XX-3 (2014). There has been no change to this situation.

***Specific restrictions to the right to strike and procedural requirements***

The Committee recalls that it has previously found the situation not to be in conformity with the Charter on the grounds that the right to strike for certain categories of employees (employees of healthcare or social care facilities; employees operating nuclear power plant facilities, facilities with fissile material and oil or gas pipeline facilities; judges, prosecutors and air traffic controllers; members of the fire brigade, members of rescue teams set up under special regulations, and employees working in telecommunications operations) is prohibited and these prohibitions do not satisfy the conditions provided by Article G of the Charter. There has been no change to the situation therefore the Committee reiterates its previous conclusion.

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

***Consequences of a strike***

The Committee has previously examined the situation under this heading and found it to be in conformity with the Charter (Conclusions XIX-3 (2010), XX-3 (2014). There has been no change to this situation.

*Conclusion*

The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 6§4 of the Charter on the ground that the right to strike for a large number of state/public sector employees is prohibited and the restrictions go beyond the limits permitted by Article G of the Charter.

## Article 21 - Right of workers to be informed and consulted

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

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

### *Scope*

The Committee requested information as to whether there are any categories of employees who are excluded from the right to information and consultation. According to the report there are no categories of employees excluded from this right and there are no thresholds in force which would exclude employees in undertakings employing less than a certain number of persons.

### *Remedies and Supervision*

In response to the Committee's request for information on remedies and sanctions the report states that an employee who has suffered a loss from the employers failure to inform and consult may complain to the Labour Inspectorate, which may investigate and sanction the employer in the event of failure to inform and consult. An employee may also have recourse to the courts.

The Committee asks whether employee representatives may also seek to enforce the right to information and consultation.

*Conclusion*

The Committee concludes that the situation in the Slovak Republic is in conformity with Article 21 of the Charter.

**Article 22 - Right of workers to take part in the determination and improvement of working conditions and working environment**

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

The Committee previously examined the situation and found it to be in conformity with the Charter, subject to further information on enforcement.

***Remedies and Enforcement***

According to the report, the Labour Inspectorate, in the event of a complaint carries out an inspection within the premises of the employer and depending on the result of this inspection, can impose sanctions and penalties. In addition an employee has the right to sue the employer before a court for any harm suffered. The court may award damages. The Committee asks whether these remedies only apply in relation to breaches of health and safety or also failure to allow workers to paricipate in the determination and improvement of working time and the working environment.

*Conclusion*

The Committee concludes that the situation in the Slovak Republic is in conformity with Article 22 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 Slovak Republic.

***Prevention***

The Committee previously requested (Conclusions 2014) updated information on initiatives aimed at promoting awareness and prevention of sexual harassment in the workplace and the extent to which employers' and workers' organisations were consulted in the framework of such activities. In answer to these questions, the report indicates that several information campaigns were conducted in the framework of the national action plan for 2014-2019 on the prevention and elimination of violence against women, adopted in December 2013. The report specifies that this plan was drawn up in consultation with the social partners and independent experts. It also states that, together, the various ministries concerned and the social partners are organising seminars and education activities focused on violence and harassment in employment to raise awareness of the problem and are preparing information material for employers and employees on sexual harassment and the remedies available to victims. The report also states that the Slovakian National Human Rights Centre has been tasked with monitoring sexual harassment cases and preparing annual reports on the situation. The labour inspectorate also has responsibility for ensuring the equal treatment of all employees.

***Liability of employers and remedies***

The Committee refers to its previous conclusions for a description of the relevant legislation, in particular as regards the prohibition related to sexual harassment under the Anti-Discrimination Act, the available remedies and the victims' protection against retorsion. It noted that complaints could be lodged against the employer in connection with a violation of the principle of equal treatment, but it requested more detailed information on the indirect liability of employers, if any, when sexual harassment occurs in relation to work, or on premises under their responsibility, but it is suffered or perpetrated by a third person, not employed by them, such as independent contractors, self-employed workers, visitors, clients, etc.

In reply, the report states that employers are liable for such harassment if it is committed by independent contractors or self-employed persons working for them. In the case of harassment committed by clients, the report states that victims may bring proceedings against the perpetrators in the local courts. The Committee asks that the next report provide information on the legal basis of such action.

***Burden of proof***

The Committee notes that there have been no changes to the situation which it previously found to be in conformity with the Charter (Conclusions 2014)

***Damages***

The Committee previously noted (Conclusions 2014) that, under the Anti-Discrimination Act, victims of sexual harassment could seek redress before a court, including compensation for non-pecuniary damages, the amount of which would be set by the court taking into account the severity of the non-pecuniary damages incurred and all circumstances in which the damage was incurred.

In response to the Committee's question as regards the right to reinstatement, the report confirms that such right is guaranteed by Article 79 of the Labour Code to all victims of unfair dismissals, whatever the reason. The Committee asks if this also applies when the person

has not been formally dismissed but pressured to resign in the framework of sexual harassment.

The Committee previously requested information on examples of case law related to sexual harassment, including as regards the damages awarded, with a view to assessing whether they are sufficiently reparatory for the victims and deterrent for the employers. As the report does not provide information thereon, the Committee reiterates its request.

*Conclusion*

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

***Prevention***

The Committee previously requested (Conclusions 2014) updated information on initiatives aimed at promoting awareness and prevention of moral (psychological) harassment in the workplace and the extent at which employers' and workers' organisations were consulted in the framework of such activities. In answer to these questions, the report confirms that under the Anti-Discrimination Act moral (psychological) harassment is prohibited and that employers must adopt internal harassment policies that have been approved by their employees' representatives. However, the report does not indicate what broader preventive measures (information, awareness-raising and prevention campaigns in the workplace or in relation to work) have been taken during the reference period, in consultation with social partners. The Committee therefore reiterates its previous questions and points out that in the absence of information in the next report there will be nothing to establish that the situation is in conformity with the Charter in this respect.

***Liability of employers and remedies***

The Committee refers to its previous conclusions for a description of the relevant legislation, in particular as regards the prohibition related to moral (psychological) harassment under the Anti-Discrimination Act and the Labour Code, the available remedies and the victims' protection against retorsion. It noted that complaints could be lodged against the employer in connection with a violation of the principle of equal treatment, but it requested more detailed information on the indirect liability of employers, if any, when moral (psychological) harassment occurs in relation to work, or on premises under their responsibility, but it is suffered or perpetrated by a third person, not employed by them, such as independent contractors, self-employed workers, visitors, clients, etc.

In reply, the report states that employers are liable for such harassment if it is committed by independent contractors or self-employed persons working for them. In the case of harassment committed by clients, the report states that victims may bring proceedings against the perpetrators in the local courts. The Committee asks that the next report provide information on the legal basis of such action.

***Burden of proof***

The Committee notes that there have been no changes to the situation which it previously found to be in conformity with the Charter (Conclusions 2014).

***Damages***

The Committee previously noted (Conclusions 2014) that, under the Anti-Discrimination Act, victims of moral (psychological) harassment could seek redress before a court, including compensation for non-pecuniary damages, the amount of which would be set by the court taking into account the severity of the non-pecuniary damages incurred and all circumstances in which the damage was incurred. It also noted that in case of breach of the employment regulations, the Labour Inspectorate could sanction the employer by imposing a fine of up to €33 000.

In response to the Committee's question as regards the right to reinstatement, the report confirms that such right is guaranteed by Article 79 of the Labour Code to all victims of unfair dismissals, whatever the reason. The Committee asks if this also applies when the person has not been formally dismissed but pressured to resign.

The Committee previously requested information on examples of case law related to moral (psychological) harassment, including as regards the damages awarded, with a view to assessing whether they are sufficiently reparatory for the victims and deterrent for the employers. As the report does not provide information thereon, the Committee reiterates its request.

*Conclusion*

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

**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 Slovak Republic.

***Protection granted to workers' representatives***

The Committee previously found the situation not to be in conformity with Article 28 of the Charter on the ground that in the event of illegal dismissal based on the trade union activities, damages were capped at an amount equivalent to 36 months wages.

The report states that there has been no change to the situation in this respect but adds that in addition to this amount, the court may grant the victim additional compensation. The Committees asks on what grounds additional compensation may be awarded. Meanwhile, it reserves its position on this point.

***Facilities granted to workers' representatives***

The Committee previously found the situation to be in conformity in this respect. However, it requested confirmation that training costs for worker representatives are covered by the employer. The report confirms that this is the case.

*Conclusion*

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

**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 Slovak Republic.

The Committee previously concluded (Conclusions 2014) that the situation was in conformity with the Charter and asked what rules applied with regard to preventive measures and sanctions.

In reply the report states that where employers fail to fulfil their obligations, employees have a right under Article 73, paragraph, 8 of the Labour Code, to additional compensation of at least double their average monthly wage in addition to the usual compensation for termination of employment. The labour inspectorate can also initiate administrative proceedings in the event of non-compliance while employees can also take their case to court.

The Committee asks what sanctions exist if employers fail to notify workers' representatives about planned redundancies. It also asks what preventive measures exist to ensure that redundancies do not take effect before the employer's obligation to inform and consult workers' representatives has been fulfilled.

*Conclusion*

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