



January 2018

1961 European Social Charter

European Committee of Social Rights

Conclusions XXI-2 (2017)

CZECH REPUBLIC

This text may be subject to editorial revision.

The following chapter concerns the Czech Republic which ratified the 1961 Charter on 3 November 1999. The deadline for submitting the 14th report was 31 October 2016 and the Czech Republic submitted it on 3 November 2016.

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 was a simplified one and concerned only the follow-up to decisions on the merits in collective complaints. The Committee's findings in this respect are available under www.coe.int/socialcharter as well as in the HUDOC database.

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In addition, the report contains also information requested by the Committee in Conclusions XX-4 (2015) in respect of its conclusions of non-conformity due to a repeated lack of information:

- the right of children and young persons to protection – fair pay (Article 7§5),
- the right of employed women to protection – illegality of dismissal during maternity leave (Article 8§2).

The Committee examined this information and deferred the conclusions relating to these Articles.

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The next report will deal with the following provisions of the thematic group "Labour Rights":

- the right to just conditions of work (Article 2),
- the right to a fair remuneration (Article 4),
- the right to organise (Article 5),
- the right to bargain collectively (Article 6),
- the right to information and consultation (Article 2 of the Additional Protocol),
- the right to take part in the determination and improvement of the working conditions and working environment (Article 3 of the Additional Protocol).

The deadline for submitting that report was 31 October 2017. The report was registered on 28 December 2017. Conclusions on the Articles concerned will be published in January 2019.

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

Article 7 - Right of children and young persons to protection

Paragraph 5 - Fair pay

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information submitted by the Czech Republic in response to the conclusion that it had not been established that the apprentices' allowances are adequate.

Apprentices

The report indicates that the level of remuneration of apprentices amounts to at least 30% of the minimum wage for the prescribed weekly working hours. In case of different working hours or in the event that no productive activities were performed by the young worker, the amount of remuneration is to be adjusted proportionally.

The Committee has repeatedly asked information on the minimum amount of the allowances (2015) granted to apprentices in their last year of apprenticeship. In its previous conclusion, as the report did not provide the requested information, the Committee considered that the situation was not in conformity with the Article 7§5 of the 1961 Charter on the ground that it had not been established that the apprentices' allowances are adequate.

According to the report, the Government Regulation No 561/2004 Coll. stipulates a level of allowances for apprentices connected with their vocational training during apprenticeship and covers all sectors of national industry and all parts of the national territory. The minimum allowance guarantees 30% of the minimum wage of an adult worker. The maximum allowance is without any limit, i.e. can be higher than minimum wage of the adult worker. The level of the allowance depends on the apprentice's work productivity. There are not deductions from the allowances.

The Committee notes that there are no statistics at disposal of Ministry of Labour and Social Affairs concerning the level of allowance, as the schools concerned are funded by Regional Authorities, the executive section of regional self-government and not by particular employers. In this respect, the risk that employers will use apprentices as underpaid workers, does not exist. The Committee asks the next report to indicate whether towards the end of the apprenticeship the apprentices are paid the wage that is higher than their starting wage.

As regards the information provided in the report concerning young workers' wage, the Committee will take it into account in its next assessment of the situation in respect of Article 7§5 in 2019.

Conclusion

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

Article 8 - Right of employed women to protection

Paragraph 2 - Illegality of dismissal during maternity leave

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2016 on conclusions of non-conformity for repeated lack of information in Conclusions 2015.

The Committee takes note of the information submitted by the Czech Republic in response to the conclusion that it had not been established that, where there is no reinstatement, the law provides for an adequate compensation.

The Committee recalls in this connection that, under Article 8, paragraph 2 of the Charter, that, where the reinstatement of employees unlawfully dismissed during pregnancy or maternity leave is not possible (e.g. if the enterprise has closed down) or the employee concerned does not wish to be reinstated, adequate compensation must be available. Domestic law must not prevent courts from awarding a level of compensation that is sufficient both to deter the employer and fully compensate the victim of dismissal.

In response to the Committee's questions (Conclusions XX-4 (2015)), the report states that the same court can award both pecuniary and non-pecuniary damage, depending on the claims submitted and provides the data requested concerning the average length of such proceedings (602 days on average, in total – district courts and regional courts – in 2014 and 2015). The report also confirms that the same regime applies to employees in the private and the public sector, and for all forms of labour law relationships, including temporary contracts.

As regards the compensation available to an employee who does not ask for reinstatement, the report confirms that such employee is entitled to compensation in the amount of the average earnings for the period of regular notice of dismissal. The Committee asks the next report to clarify whether this means that the courts can only award the abovementioned limited amount, without taking into account the damage effectively suffered in a specific case, even though the dismissal was found to be illegal. It reserves in the meantime its position on this issue.

The Committee recalls that the situation concerning other aspects covered by Article 8§2 will be examined in the framework of the regular reporting cycle (Conclusions XXII-4 (2023)) and asks that relevant and updated information be provided in that context.

Conclusion

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