

European Social Charter

European Committee of Social Rights

Conclusions XVIII-2 (2007)

**Conclusions concerning Articles 1§4,
2, 3, 4, 9, 10 and 15 of
the Charter, and Articles 2 and 3 of the
1988 Additional Protocol in respect of
Slovakia**

Introduction

The function of the European Committee of Social Rights is to judge the conformity of national law and practice with the European Social Charter and the Revised Charter. In respect of national reports, it adopts “conclusions” and in respect of collective complaints, it adopts “decisions”.

A presentation of this treaty as well as general comments formulated by the Committee figure in the General Introduction to the Conclusions¹.

The European Social Charter and the 1988 Additional Protocol were ratified by Slovakia on 22 June 1998. The time limit for submitting the 4th report on the application of the Charter to the Council of Europe was 31 March 2006 (reference period: 1 January 2003 to 31 December 2004) and Slovakia submitted it on 27 April 2006.

This report concerned part of the following “non-hard core” provisions of the Charter:

- right to just conditions of work (Article 2);
- right to safe and healthy working conditions (Article 3);
- right to a fair remuneration (Article 4);
- right to vocational guidance (Article 9);
- right to vocational training (Article 10);
- right of persons with disabilities to education, training and employment (Article 15).

The report also concerned two Articles of the Additional Protocol:

- right to information and consultation (Article 2);
- right to take part in the determination and improvement of the working conditions and working environment (Article 3).

1. The conclusions as well as state reports can be consulted on the Council of Europe's Internet site (www.coe.int) under Human Rights.

Slovakia has accepted all these articles.

The Committee received comments from the Confederation of Trade Unions of Slovakia.

The present chapter on Slovakia contains 23 conclusions¹:

- 8 cases of conformity: Articles 2§3, 2§4, 2§5, 3§1, 3§2, 3§3, 10§3 and Article 3 of the Additional Protocol;
- 11 cases of non-conformity: Articles 1§4, 2§1, 4§1, 4§2, 4§4, 4§5, 10§1, 10§2, 10§4, 15§1 and 15§2.

In respect of the 4 deferred conclusions, that is Articles 2§2, 4§3, 9 and Article 2 of the Additional Protocol, the Committee needs further information in order to assess the situation.

The next Slovakia report will be the first under the new system for the submission of reports adopted by the Committee of Ministers². It concerns the accepted provisions of the following articles belonging to the thematic group "Employment, training and equal opportunities":

- the right to work (Article 1);
- the right to vocational guidance (Article 9);
- the right to vocational training (Article 10);
- the right of persons with disabilities to education, training and employment (Article 15);
- the right to engage in a gainful occupation in the territory of other Contracting Parties (Article 18);
- the right for men and women to equal opportunities (Article 1 of the Additional Protocol).

The report should be submitted to the Council of Europe before 31 October 2007.

1. The 23 conclusions correspond to the paragraphs of the Articles which are part of the non-hard core and Article 1§4. This latter provision is usually examined together with Articles 9, 10 and 15 due to the links between these provisions. Since the right to equality under Article 1 of the Additional Protocol covers remuneration, the Committee does no longer examine the national situation in this respect under Article 4§3 (right to equal pay) as regards States which have accepted both provisions.

2. Decision adopted at the 963rd meeting of the Ministers' Deputies on 3 May 2006.

Article 1 – Right to work

Paragraph 4 – Vocational guidance, training and rehabilitation

The Committee takes note of the information in Slovakia's report.

As Slovakia has accepted Article 9, 10§3 and 15§1 of the Charter, measures relating to vocational guidance, to vocational training and retraining of workers, and to guidance, education and vocational training for persons with disabilities are dealt with under these provisions.

In these conclusions, the Committee found that the situation with regard to vocational training of workers (Article 10§3) is in conformity with the revised Charter. However, it deferred its conclusion on vocational guidance (Article 9).

The Committee considered moreover that the situation with regard to the vocational guidance and rehabilitation of persons with disabilities (Article 15§1) is not in conformity with the Charter because of the repeated lack of information on the subject.

The Committee concludes that the situation in Slovakia is not in conformity with Article 1§4 of the Charter.

Article 2 – Right to just conditions of work

Paragraph 1 – Reasonable daily and weekly working hours

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

The Committee notes that pursuant to Article 85 of the Labour Code the maximum weekly working time is 40 hours and 48 hours including overtime. According to Article 92 of the Labour Code the daily rest period can be shortened from 12 to 8 hours, in exceptional circumstances such as continuous operations and rotational work, urgent repair works and emergencies, leading to a 16 hours long working day. The Committee observes that in this respect there has been no change since its last conclusion where it concluded that the situation in Slovakia was not in conformity with the Charter as legislation permitted daily working time of up to 16 hours.

The Committee takes note of average working hours in practice. It notes that in 2003 the total average working time for full-time workers was 37.84 hours per week and 38.04 hours per week in 2004.

The Committee also notes some examples of working time as established by collective agreements. A weekly working time has been established at 37.5 hours by the Collective Agreement concluded between the Trade Union SPOJE, the Slovak Trade Unions of Post and Telecommunications and the Slovak Post.

The Committee recalls that extremely long working hours e.g. those of up to 16 hours on any one day are unreasonable and therefore not in conformity with the Charter.

The Committee concludes that the situation in Slovakia is not in conformity with Article 2§1 of the Charter on the grounds that the legislation permits daily working time of up to 16 hours.

Paragraph 2 – Public holidays with pay

The Committee notes the information provide in Slovakia's report.

The Committee recalls from previous conclusions that public holidays are paid.

According to section 122 of the Labour Code the general rule is that where work is carried out on a public holiday a worker is entitled to his/her normal wage plus a wage bonus of at least 50 % of his/her normal wage. However the report also refers to section 18 of Act No. 553/2003 which provides that if an employee works on a public holiday he/she shall be entitled to a bonus of at least 100 % of his/her normal wage. (The Committee asks whether this means that an employee will get double his normal daily wage).

The Committee considers that work performed on a public holiday requires a constraint on the part of the worker, who should be compensated with a remuneration at a higher than normal average wage. In this regard, work performed on a public holiday should be paid at least at double the usual rate (100 % above the normal salary) plus an additional bonus (Conclusions XVIII-1). Therefore it wishes to receive clarification of the situation.

The Committee recalls from the previous conclusion that the employer and employee may agree on time off in lieu of work performed on a public holiday.

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

Paragraph 3 – Annual holiday with pay

The Committee notes from Slovakia's report that there have been no changes to the situation which it has previously found to be in conformity. The Committee considers that annual holidays exceeding two weeks may be postponed in particular circumstances defined by domestic law, the nature of which should justify the postponement. The Committee asks the next report to provide information on the rules relating to the postponement of annual leave.

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

Paragraph 4 – Reduced working hours or additional holidays for workers in dangerous or unhealthy occupations

The Committee notes from Slovakia's report that there have been no changes to the situation, which it has previously considered to be in conformity with the Charter.

The Committee refers to its statement of interpretation on Article 2§4 in the General introduction to these conclusions.

The Committee concludes that the situation in Slovakia is in conformity with Article 2§4 of the Charter.

Paragraph 5 – Weekly rest period

The Committee notes the information provided in Slovakia's report.

The Committee previously found that the situation was in conformity with the Charter but requested information as to whether the law rules out any possibility of employees' forfeiting their weekly rest period, for example in exchange for higher pay.

The report states that the minimum weekly uninterrupted rest period of 24 hours may not be forfeited nor exchanged for higher pay.

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

Article 3 – Right to safe and healthy working conditions

Paragraph 1 – Issue of safety and health regulations

The Committee takes note of the information contained in Slovakia's report.

Content of the health and safety at work regulations

The Committee examined the general scope of the regulations in the addendum to Conclusions XV-2 (pp. 144-146). The report mentions a number of health and safety regulations which have been adopted or amended during the reference period, for example, on the minimum safety and health requirements for the use of work equipment, or at construction sites, on jobs and workplaces that are prohibited to pregnant women and adolescent employees, on the criteria for categorization of jobs, and on the protection of non-ionising radiation. Numerous other legislative and regulatory measures on the protection of health and safety at work are also mentioned in the report. On the basis of this information, the Committee considers that the general obligation under Article 3§1 that health and safety regulations must specifically cover most of the risks listed in the general introduction to Conclusions XIV-2 (pp.37-38) has been met.

Protection against dangerous agents and substances

– Protection of workers against asbestos. The Committee notes that domestic regulations on asbestos are in accordance with the standards laid down in European Community Directives on asbestos, which the Committee makes reference to when assessing compliance with this part of Article 3§1. As regards exposure limits of employees, Slovakian regulations comply with those set out in Council Directive 83/477/EEC of 19 September 1983 on the protection of workers against risks connected with exposure to asbestos during work¹ as amended by Directive 2003/18/EC of the European Parliament and of the Council of 27 March 2003². In respect of restrictions on the use and marketing of asbestos, the Committee notes that regulations

1. Official Journal No. L. 263 of 24/09/1983, pp. 0025-0032.

2. Official Journal No. L 097 of 15/04/2003.

comply with Commission Directive 1999/77/EC of 26 July 1999¹ in particular by not permitting new applications for chrysotile asbestos.

– Protection of workers against ionising radiation. The Committee notes that regulations on ionising radiations are contained in Act No. 272/1994. The report states that dose limits have been introduced by the Decree of the Ministry of Health No. 12/2001, in accordance with Council Directive 96/29/Euratom of 13 May 1996 laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation². On the basis of this information, the Committee considers that protective measures against risks related to ionising radiation are in conformity with Article 3§1.

Protection of temporary workers

The report states that legislation on occupational health and safety applies to all type of employment contracts. The Labour Code establishes that fixed-term employees must not be treated in a discriminatory manner as regards working conditions and occupational health and safety protection. The Committee asks the next report to provide specific examples of how non-permanent and temporary agency workers are trained and informed on health and safety. It would also like to receive information on how medical surveillance is made available for this for this category of workers, and to know if non-permanent workers are entitled to representation at work in health and safety questions.

Personal scope of the regulations

The Committee has previously noted that Act No. 330/1996 on occupational health and safety protection applies to self-employed workers, who are required to comply with the specific regulations applicable to their branch of activity and to take maximum precautions to avoid injury to themselves or their co-workers. The report reiterates that Act No. 330/1996 applies to self-employed workers, home workers and domestic staff, as does Act. No. 272/1994 on the protection of human health. It furthermore states that domestic staff are protected by §147 of the Labour Code, which places employers

1. Official Journal No. L 207/18 of 06/08/1999.

2. Official Journal No. L 159 of 29/06/1966, pp. 0001-0114.

under the basic obligation of systematically ensuring the safety and health protection of their employees, and of taking the necessary measures for this purpose.

Whilst the Committee is satisfied that the health and safety regulations for the protection of self-employed workers and of domestic staff are sufficient, it has doubts as to whether this is the case for home workers. The report mentions that the Labour Code applies to this type of labour relation, but does not make reference to any health and safety provisions. The Committee therefore asks the next report to provide more information on what arrangements exist for ensuring health and safety protection for this category of workers, and whether the Labour Inspectorate or the employer are entitled to enter the residence from which the home worker performs his work to assess if it is satisfactory from a safety and health at work point of view.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Slovakia is in conformity with Article 3§1 of the Charter.

Paragraph 2 – Provision for the enforcement of safety and health regulations by measures of supervision

The Committee takes note of the information provided in Slovakia's report.

Occupational accidents and diseases

The Committee notes from Eurostat¹ that there has been a decreasing trend in the number of accidents at work between 2000 and 2004². This is confirmed by the report, which indicates that the number of accidents at work in 2003 was 17 349, falling to 13 317 in 2004.

As regards the sector of agriculture, hunting and forestry, the one with the highest incidence of work injuries, the Committee notes there has also been a decreasing rate in the number of accidents, from

1. Eurostat, Population and Social conditions, in <http://epp.eurostat.ec.europa.eu/portal/>.

2. With 1998=100, the index values for the subsequent years were as follows: 1999: 92; 2000: 88; 2001: 84; 2002: 77; 2003: 68 and 2004: 54.

2 027 accidents in 2003 to 1 272 in 2004. In reply to the Committee's question on whether specific preventive measures have been taken in respect of this sector, the report describes a number of general health and safety measures. The Committee therefore reiterates its question, and asks in particular if training courses on health and safety (or other measures) have been put in place for agricultural, hunting and forestry workers.

As regards the number of fatal accidents, the report shows a slight decrease in 2004 in comparison to the last reference period (94 fatal accidents in 2003, and 79 in 2004).

In respect of the Committee's question of what measures have been taken to reduce the incidence of occupational diseases in the mining industry, the report indicates that Act No. 124/2006 was amended in 2006, as a result of which mining was included in the category of high-risk sectors and stricter health and safety obligations can now be imposed, *inter alia*, on safety engineers and on inspectors investigating a case of damage to health. The Committee notes that this amendment has taken place outside of the reference period, and wishes to be kept informed on whether it has a positive impact in reducing the number of occupational diseases in the mining sector.

Activities of the Labour Inspectorate

The Committee examined the general organisation of inspection services in addendum to Conclusions XV-2 (pp. 146-147). In reply to the Committee's question of whether labour inspectors are entitled to enter inhabited working areas, the report states that when the workplace of an entrepreneur (including self-employed persons) is situated on private premises, the Labour Inspectorate is empowered to enter such a workplace, including private land and roads, to the extent required for the inspection.

The updated information on the number of inspection visits by the Labour Inspectorate shows a slight increase in comparison with the previous reference period: between January 2003 and December 2004, 19 587 enterprises were visited. The number of workers covered by the inspections was 1 162 139. Given that the total number of employees in Slovakia is 2 019 372, the Committee notes that the proportion of workers covered by such inspections compared with the total workforce is over 50 %. The Committee asks for confirmation that such a high ratio of employees covered by visits is

correct, and, furthermore, if the number inspections quoted were all related to occupational health and safety.

As regards sanctions by the Labour Inspectorate in 2004, the Committee notes from another source¹ the following: the issuing of 625 improvement notices, 622 orders of cessation of work, and the imposition of 21 376 900 administrative fines. The Committee asks if such a high number of fines is correct. It would also like to receive in the next report data on the number of cases presented to the public prosecutor and those leading to a conviction.

Conclusion

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

Paragraph 3 – Consultation with employers' and workers' organisations on questions of safety and health

The Committee takes note of the information contained in Slovakia's report.

The Committee considered the machinery and procedures for consultation at national and enterprise level in the addendum to Conclusions XV-2 (pp. 147-148), and concluded that they satisfied Article 3§3 of the Charter. The Committee notes that there has been one significant change in the consultation system during the reference period: in 2003 a Coordination Council on occupational health and safety was set up as an advisory body of the Minister of Labour, Social Affairs and Family. The Council, *inter alia*, coordinates activities of state authorities in the field of occupational safety and health, and its membership comprises representatives from the Ministries of Labour, Social Affairs and Family; Interior; Defence; the National Labour Inspectorate; the Office of Public Health; the academic community and employers' associations.

The Committee takes note of the comments on the report by the Confederation of Trade Unions of Slovakia (KOZ) stating that trade unions are not represented on the new Coordination Council on occupational health and safety, as is the rule in European Union

1. European Commission, 2004 National Labour inspections Annual Reports, in http://ec.europa.eu/employment_social/health_safety/slic_en.htm.

bodies of this nature. The Committee asks for the Government's comments in this respect, and recalls that Article 3§3 of the Charter calls for tripartite cooperation between authorities, employers and workers to seek ways of improving their working conditions and working environment, as well as the coordination of their activities and co-operation on key safety and prevention issues.

Pending receipt of the information requested, the Committee concludes that the situation in Slovakia is in conformity with Article 3§3 of the Charter.

Article 4 – Right to a fair remuneration

Paragraph 1 – Adequate remuneration

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

The Minimum Wage Act and the implementing regulation of the Government guarantee the wage at least in the amount of the minimum wage. The level of the minimum wage is determined annually after tripartite negotiations between representatives of the state, employers and employees.

The Committee notes from the report that according to the Statistics Office of Slovakia the gross monthly average wage of a full time worker in 2003 amounted to SKK 14 365 (€430) and the net average wage equalled SKK 11 355 (€340). In 2004 the gross average wage amounted to SKK 15 825 (€474) whereas the net to SKK 12 380 (€371). As regards the net minimum wage it amounted to SKK 5 095 (€152) in 2003 and SKK 5 629 (€168) in 2004.

It follows that the minimum net monthly wage in 2003 represented only 44.9 % of the net average wage and in 2004 it represented 45.5 %.

While acknowledging the concerns of the Slovak Government regarding the minimum wage, the Committee recalls that the Article 4§1 of the Charter obliges the Contracting states to take appropriate measures to ensure a decent standard of living for workers and their families. It requires that these States make a continuous effort to achieve the objectives set by this provision of the Charter. This being so, account must be taken of the fact that the socio-economic status of the worker and his family changes and that his basic needs, which at first are centred on the provision of purely material basic necessities such as food and housing, subsequently move towards concerns of a more advanced and complex nature, such as educational facilities and cultural and social benefits (see Conclusions I, p. 26).

The Committee proceeds from the expectation that a net minimum wage amounting to no less than 60 % of the net average wage will provide the wage earner concerned with a decent living standard.

The Committee concludes that the situation in Slovakia is not in conformity with Article 4§1 of the Charter as the minimum net wage is manifestly inadequate.

Paragraph 2 – Increased rate of remuneration for overtime work

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

The Committee notes from the report that according to Article 121 of the Labour Code if the employee agrees with the employer on taking time-off in lieu of overtime worked, he or she will be entitled to an hour of time-off for each hour of overtime work. The Committee recalls that granting leave to compensate for overtime is compatible with Article 4§2 of the Charter, on condition that this leave is longer than the overtime worked. The Committee also takes note of Act No. 553/2003, Section 19 which also provides that an employee taking a time-off in lieu of increased remuneration for overtime worked shall be entitled to an hour of time-off for each hour of overtime worked to be granted within three months. Therefore the Committee considers that the situation in Slovakia is not in conformity with the Charter on this point.

In its previous conclusion the Committee wished to know what the situation was in respect of police officers which are offered time off in lieu of extra payment for overtime hours worked outside of public holidays. It also requested more detailed information about the workers whose salary is fixed in an amount intended to compensate potential overtime work. In particular, the Committee wished to know how overtime work is calculated in advance and how salaries are adjusted to compensate the exact amount of overtime that would be performed.

The Committee notes that police officers working overtime are entitled to a remuneration in the amount of a normal working hour increased by 20 % for ordinary weeks and by 50 % for public holidays. They are not entitled to this remuneration if they agree with their senior officer that they will receive substitute time-off which should be provided within 60 days. The Committee asks whether the time-off granted is longer than the duration of the overtime worked.

As regards the Committee's second question, the report notes that according to Article 121 of the Labour Code employees are not entitled to wage and wage surcharges or substitute time-off if their wages already take into account the possible overtime work. This Article stipulates that a worker's contract can take into account the possible overtime work of at most 150 hours per year. All agreed overtime work in excess of 150 hours entitles the employee to wage and wage surcharges for overtime work. However, following the amendments to the Labour Code, as of 1 July 2003 such an agreement on wage conditions can only be made in employment contracts and not in collective agreements anymore. In this connection the report gives some examples of employment contracts that allow for potential overtime work to be included in the wage. In the mechanical engineering industry the original wage was increased so that it took into account the overtime worked in the previous year. In the insurance field an employee with a guaranteed salary of SKK 9 760 per month would get a contractual salary of SKK 15 000 allowing for possible overtime work during the regular days of the month. In the textile industry the wages of an employee with this form of contractually agreed wage is on average 40 % higher than the wage of the highest paid employee whose wage conditions do not allow for overtime. The Committee recalls that Article 4§2 of the Charter which is inextricably linked to Article 2§1 requires that working overtime must not simply be left to the discretion of the employer or the employee. The reasons for overtime work and its duration must be subject to regulation and the workers should be granted an effective right to an increased rate of remuneration for overtime work. The Committee considers that the legal guarantees provided to these workers in individual contracts are not sufficient to protect them.

The Committee concludes that the situation in Slovakia is not in conformity with Article 4§2 of the Charter on the following grounds:

- the right of workers to compensatory time-off for the overtime work is not guaranteed.
- the legal guarantees as regards the remuneration for overtime hours for workers whose salary is fixed by an individual contract, are not sufficient.

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

Since the right to equality under Article 1 of the 1988 Additional Protocol covers remuneration, the Committee will no longer examine the national situation under Article 4§3 (right to equal pay) in respect of States which have accepted both provisions. Consequently, the States concerned are no longer required to submit a report on the application of Article 4§3.

Therefore, the Committee decides to adopt the same conclusion under both provisions in respect of equal pay. Consequently, as it did under Article 1 of the Additional Protocol (Conclusions XVI-2, Slovakia, pp. 813-815), it defers its conclusion on Article 4§3 of the Charter. The information provided in the present Slovak report on Article 4§3 will be taken into account by the Committee during its next examination of Article 1 of the Additional Protocol.

Paragraph 4 – Reasonable notice of termination of employment

The Committee takes note of the information in Slovakia's report.

The Committee notes that a new Article 62 of the Labour Code came into force on 1 July 2003, and that the period of notice no longer depends on the reason for terminating employment but on length of service. The minimum notice is two months. It may reach three months if the employee has worked for the employer for at least five years. The Committee considers that these periods of notice are compatible with Article 4§4 of the Charter.

However, it also notes that Article 49 of the Labour Code, concerned with part-time work, sets a distinction based on weekly hours worked rather than length of service. For example, under this article, employees working fewer than twenty hours a week are liable to fifteen days' notice. There is no reference to any criterion based on length of service.

The Committee therefore concludes that the situation in Slovakia is not in conformity with the Charter on the grounds that the length of service of employees working fewer than twenty hours a week is not taken into consideration in order to establish the period of notice.

Paragraph 5 – Limitation of deduction from wages

The Committee takes note of the information provided in Slovakia's report. In particular, it notes that Article 131 of the Labour Code enumerates the cases in which deductions may be made from wages.

The report also stipulates that in accordance with contractual freedom, the range and scope of any additional deductions to those provided for under Article 131 of the Labour Code depend entirely on an agreement between employee and employer. The Committee considers that this possibility is too general and is therefore not in conformity with Article 4.5 of the Charter. It points out that there must be limitations on deductions from wages and that workers must not be able to waive their right to such limitations (Conclusions 2005, Norway, pp. 524-525).

Furthermore, from the information appearing in Slovakia's report, the Committee notes that there has been no change to the situation regarding the limitation of deductions from wages, which it had previously considered not to be in conformity with the Charter. The Committee reiterates that "Article 4§5 requires that deductions from wages must not deprive the worker of his very means of subsistence. Given that the portion of the worker's wage which is immune from deductions (SKK 1 600 + SKK 1 000 lump sum for a single worker, totalling SKK 2 600 (€60) falls far below the minimum wage level (SKK 4 920, €147), the Committee considers that Slovak law does not guarantee that workers are not deprived of their very means of subsistence where their wages are subject to deductions." (Conclusions XVI-2, p. 730).

The Committee therefore concludes that the situation in Slovakia 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;
- deductions from wages may deprive workers of a minimum level of income to ensure the means of subsistence for themselves and their families.

Article 9 – Right to vocational guidance

The Committee notes the information in Slovakia's report.

As Slovakia has accepted Article 15 of the Charter, measures relating to vocational guidance for persons with disabilities are dealt with under that provision.

Vocational guidance in the education system

According to the report, a national project was launched in 2004 to extend the quality and range of employment services, principally for the benefit of primary and secondary school pupils. New arrangements were to be introduced to offer pupils better guidance. The project was scheduled to last for one year, until 2005. The Committee asks to be informed of the follow-up of the project.

The Committee also notes that the Higher Education Act (No. 131/202) establishes careers advice centres run by universities and other higher education institutions. This is an independent advice and counselling service for students. The report also mentions two national research institutes: the state pedagogical institute and the state vocational education institute. These prepare vocational guidance and training material for primary and secondary schools to match the needs of the labour market.

The Committee, however, notes that there are no replies to the Committee's questions in the last conclusion (Conclusions XVI-2, pp. 759-61) in the report and it reiterates its questions.

It asked, in particular, if students could choose to follow or not the advice received through guidance and, if necessary, what are the consequences in case of non-compliance.

The Committee also found no indication in the report about expenditure, number of staff and of persons assisted in vocational guidance in the school system and asked for this information to be provided in the next report.

Vocational guidance in the labour market

The Committee refers to its previous conclusion (*ibidem*) for a general description of the guidance system.

An individualised employment services programme for persons with particular employment problems has been introduced in 2003. It concerns in particular the long-term unemployed, disabled persons, senior citizens, unemployed Roma and women who have lost their jobs after maternity leave.

Two additional projects (projects VII A for the period 2005-2006 and VII B for the period 2005-2007), both designed to assist unemployed persons and currently employed persons who wish to change jobs, have also been introduced.

In addition, vocational guidance services provided by employers, employers' associations and non-governmental organisations have been established. The Committee asks for further information and, in particular, it wishes to know if these services are open to everyone, including students.

According to observations submitted by KOZ, the Slovakian trade union confederation and the largest employee representative organisation, insufficient attention is paid to the training of vocational guidance staff. The Committee asks for the government's comments.

The Committee asks to be systematically informed of the number of persons assisted in vocational guidance.

Dissemination of information

Increasing use is being made of new information techniques related to vocational guidance following the introduction of an education programme based on the use of such techniques in the activities of the guidance services.

In addition, an internet portal was introduced in 2004 for the use of the employment services, with information on vacant posts.

Conclusion

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

Article 10 – Right to vocational training

Paragraph 1 – Promotion of technical and vocational training and the granting of facilities for access to higher technical and university education

The Committee notes the information provided in Slovakia's report and observes that it does not answer the questions posed by the Committee in its previous conclusions (Conclusions XV-2 Add., p. 189 and Conclusions XVI-2, pp. 762-767). This information is not sufficient, therefore, to enable it to assess the situation.

The report states that education and vocational training are mainly the responsibility of the Ministry of Education. The Committee previously noted that under the public administration reform, the transfer of competences in education from the state regional administration to self-governing regional/local institutions was to have been completed by July 2002. It once again asks for information on whether this has in fact occurred and on the kind of competences transferred.

The Committee recalls that under Article 10§1 national reports should:

- describe the most recent measures adopted to promote vocational training, including general and vocational secondary education, university and non-university higher education, apprenticeship, and continuing training (the description of the whole system may be recovered from existing databases on the topic: Eurydice, Cedefop);
- highlight the bridges between secondary vocational education and university and non-university higher education;
- outline the mechanisms for the recognition/validation of knowledge and experience acquired in the context of training/working activity in order to achieve a qualification or to gain access to general or technical education;
- underline the measures to make general secondary education and general higher education qualifications relevant from the perspective of professional integration in the job market;
- outline the mechanisms for the recognition of qualifications awarded by continuing vocational education and training
- provide figures about the completion rate of students enrolled in higher education;

- provide figures on the employment rate of people who hold a higher-education qualification and the waiting-time for these people to get a first qualified job.

It is clear that access to higher technical or university education based solely on individual aptitude cannot be achieved only by setting up educational structures which facilitate the recognition of knowledge and experience as well as the transfer from one type or level of education to another; this also implies that registration fees or other educational costs do not create financial obstacles for some candidates.

The Committee requests that the next report provide detailed information on the entire education and training system on the basis of the above guidelines and the Form for Reports.

Secondary, further and higher education

According to the report, Ministry of Education Decree No. 424/2005 partly amended Decree No. 80/1991 on vocational education. For the first time in secondary education, the characteristics of vocational education, its system of organisation and harmonisation with the job market and international standards have been enshrined in statute. These changes were adopted in consultation with representatives of the social partners and employers and in co-operation with the various ministries.

According to the report, in April 2003, the Ministry of Education decided to create a new qualification in the field of higher vocational education and amended the laws in order to introduce bachelor study programmes in technical universities.

In its previous conclusion (Conclusions XVI-2, pp. 762-767), the Committee noted that the education and vocational training system was undergoing reform. It further noted that under a new draft law amending the School Act, secondary specialised and vocational schools were to be merged into a new type of secondary vocational education and training (VET) school offering both 4-year courses giving access to *Maturita* and shorter courses leading to a Certificate of Apprenticeship. The Committee asks that the next report provide information about the follow-up to the above-mentioned bill and the implementation of the reform. It also asks that the next report outline

the structure of the post-secondary education and higher education system that is to be put in place after the reform.

It appears from the report that access to higher technical education and university is based solely on individual aptitude. The Committee reiterates its question as to whether there are sufficient places for all interested parties and, if not, how selection on the basis of individual aptitude takes place.

Measures taken to facilitate access to education and effectiveness of these measures

The report indicates that in the 2003-2004 academic year, there were 728 institutions in secondary and further education, 20 000 teachers and 232 000 students. The Committee notes from another source¹ that in the 2004-2005 academic year, there were 24 universities and approximately 108 000 students enrolled in university courses, compared with 97 000 students in the 2002-2003 academic year.

The Committee observes from the Eurostat data that public expenditure on education, all levels combined, has levelled off. Slovakia spent 4 % of GDP in 2000 and 4 % in 2002 on education (the EU average being 4.9 % in 2002).

The Committee noted in its previous conclusion (*ibidem*) that, as far as equality of treatment was concerned, Regulation No. 80/1991 on secondary schools (implementing the School Act) guaranteed equal access to vocational training for nationals of the other Contracting Parties to the Charter and revised Charter. Having found no reply in the report, the Committee once again asks whether equal treatment is also guaranteed for access to higher technical education and university education.

Conclusion

The Committee concludes that the situation in Slovakia is not in conformity with Article 10§1 of the Charter on the grounds that it has not been established that the right vocational training is sufficiently guaranteed.

1. Eurydice database (www.eurydice.org).

Paragraph 2 – Promotion of apprenticeship

The Committee notes the information provided in Slovakia's report and observes that it does not answer the questions posed in the previous conclusions (Conclusions Addendum, XV-2, pp. 191-192 and Conclusions XVI-2, pp. 767-768). This information is not sufficient to enable it to assess the situation, therefore.

The Committee observes from the report that secondary apprentice schools (SAS) provide vocational training and prepare students for manual and some technical and economic occupations. Having found no reply in the report, the Committee once again asks whether SAS is the new name for secondary vocational schools (SVS), whether practical training in the context of SAS takes place in enterprises and whether there are enough places for all applicants. It also asks that the next report provide further information about the practical instruction centres mentioned in the previous report.

As regards measures taken to improve the financial situation of SAS, the report mentions the adoption of Act No. 597/2003 on the financing of primary and secondary schools and school facilities, which came into force on 1 January 2004 and which partly reformed the system of school funding. Schools receive an annual financial contribution based on the number of pupils. These funds come from the municipal and regional authorities and from central government.

The Committee once again asks that the next report provide information on what steps, if any, have been taken or are planned to establish apprenticeship arrangements within the meaning of Article 10§2 of the Charter, i.e. training taking place within the framework of an employment relationship between the employer and the apprentice. It also wishes to know whether the Council for Vocational Education and Training, which was set up as an advisory body to the Minister of Education, with the participation of the social partners and the Ministry of Labour, Social Affairs and the Family, provide help in this direction.

The Committee once again asks whether equal access is guaranteed for all kinds of apprenticeship and to minorities (such as the Roma).

The Committee concludes that the situation in Slovakia is not in conformity with Article 10§2 of the Charter on the grounds that it has not been established that the right to an apprenticeship is sufficiently guaranteed.

Paragraph 3 – Vocational training and retraining of adult workers

The Committee takes note of the information provided in Slovakia's report.

Employed people

In reply to the Committee, the report states that large and small businesses provide training for their staff in order to test their knowledge and improve their quantitative and qualitative performance. This training also enables staff to sit examinations and obtain certificates. It is paid for by employers.

In reply to the Committee's question about the existence of preventive measures against the deskilling of still active workers at risk of becoming unemployed as a consequence of technological and/or economic progress, the report states that, pursuant to Act No. 386/1997 on further education, as amended by later regulations, companies provide continuing training for their workers to enable them to adapt to the needs of the job market, to the growth of new technologies, to changing production methods and to ensure professional mobility.

The report provides consolidated figures for further training and re-training. In 2004, there were 387 institutions in Slovakia offering courses of this kind, attended by some 402 000 students, 233 000 of them women. The Committee asks that the next report provide statistical data on participation in continuing vocational training for employed people and on expenditure on training of this kind.

The Committee once again asks whether legislation exists on the possibility of individual leave for training and, in particular, subject to what conditions, of what length and in which cases it is paid or not.

Unemployed people

According to Eurostat, unemployment fell from 18.7 % in 2002 to 17.5 % in 2003, only to rebound to 18 % in 2004. Long-term

unemployment is still rising and has reached very high levels (65.1 % in 2002 and 65.2 % in 2003).

On 27 May 2003, the National Labour Office adopted a set of “Rules and Criteria for the Implementation of Re-training Programmes”. This document lays down basic rules enabling the National Labour Office to organise and implement training programmes for the unemployed. The rules are designed to ensure transparency, equality of opportunity, equal treatment and non-discrimination in training institutions, as well as maximum economic efficiency in the use of the public funds. The National Labour Office is tasked with selecting institutions providing vocational training programmes. In order to run training courses for unemployed persons wishing to re-enter the workforce, institutions must meet various material, spatial, technical and organisational requirements and the proposed activities must have been approved by the Further Education Accreditation Committee of the Ministry of Education. A career guidance officer helps individuals to find suitable courses based on an assessment of their abilities, work experience, training and personal qualities. Applicants undergo a selection procedure administered by the institution running the course. These measures are applicable to all unemployed persons interested in re-training.

According to the report, in 2003, 237 institutions worked with the district labour offices and the National Labour Office ran 2 331 re-training courses. 24 711 unemployed people started training courses and 27 533 people, 57 % of them women, completed them. Spending on these programmes amounted to around 5.5 million euros. In 2004, 27 329 unemployed people started courses and 23 130, 60 % of them women, completed them, at a total cost of around 3.7 million euros.

The Committee repeats its request for further information on the sharing of the burden of the cost of continuing training among public bodies (state or other collective bodies), unemployment insurance schemes, enterprises and households.

The reports states that there is vocational training provision for women wishing to return to work after taking time off to have children. In 2003 and 2004, more than 50 % of all those who received re-training were women.

In reply to the Committee, the report states that under Act No. 5/2004 on employment services, equal access to continuing training and re-training is guaranteed to Slovak nationals and nationals of the other Contracting Parties to the Charter, provided that they are legally resident in Slovakia.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Slovakia is in conformity with Article 10§3 of the Charter.

Paragraph 4 – Encouragement for the full utilisation of available facilities

The Committee notes the information provided in Slovakia's report.

Fees and financial assistance (Article 10§4.a and b)

The system of scholarships in secondary education and special schools is governed by Ministry of Education Decree No. 311/2004. The scholarships for pupils in secondary schools range from 17 to 34 euros per month depending on the student's results. These scholarships are not treated as income. They help to relieve the burden on parents experiencing hardship and encourage pupils to continue their studies.

In higher education, financial assistance for students takes the form of scholarships and loans.

Scholarships are funded by the state and some higher education institutions. In 2005, a new scholarship, based on merit, was introduced, enabling students who achieve outstanding results in their first year to obtain financial help for subsequent years. For the 2005-2006 academic year, this scholarship amounted to 572 euros.

Decree No. 102/2006 of 1 April 2006 deals with social scholarships for needy students. The level of support varies from 157 to 188 euros per month depending on whether or not the students live at home. The

amount is reviewed on 1 July every year. The Committee once again asks whether the amount of the social scholarship is adequate in relation to the cost of living, irrespective of how it compares to the minimum wage.

Loans are awarded by the Student Loans Fund and are capped at 1 145 euros per year. They are awarded for a maximum period of 6 years and are repayable over 10 years, at an interest rate of 3 %.

Social scholarships and loans are available to Slovak students and to foreign nationals with permanent residence in Slovakia.

In its previous conclusion (Conclusions XVI-2, pp. 772 to 774), the Committee concluded that the situation was not in conformity with the Charter because the grant of financial aid for education and training was subject to a permanent residence requirement. Having found no further information on this subject in the report, the Committee maintains its conclusion of non-conformity.

Training during working hours (Article 10§4.c)

The time spent by employees in continuing vocational training is counted as day worked for which the employee is entitled to a wage. The Committee repeats its request that the next report indicate the average time spent annually per worker on training courses taking place during the working day.

Efficiency of training (Article 10§4.d)

In reply to the Committee, the report states that the various ministries, the social partners and employers' representatives share responsibility for organising secondary vocational training, both in secondary vocational schools and in secondary technical schools. The aim is to ensure that vocational training matches the needs of the labour market.

Conclusion

The Committee concludes that the situation in Slovakia is not in conformity with Article 10§4 of the Charter on the grounds that equal treatment for nationals of the other Contracting Parties to the Charter and Revised Charter who are not permanently resident in Slovakia with respect to financial assistance for education and training is not guaranteed.

Article 15 – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement

Paragraph 1 – Vocational training for persons with disabilities

The Committee takes note of the information provided in Slovakia's report.

The Committee notes from the report that, in 2003, 290 000 persons with disabilities were registered for the compensation system under Act. No. 195/1998 on social assistance. The Committee asks to be systematically informed on the total number of persons with disabilities and, in particular, that of children (0-18 years of age).

In reply to the Committee, the report indicates that when assessing disability at least for the purpose of social assistance, international classifications such as that endorsed by the WHO (International Classification of Functioning, Disability and Health – ICF 2001) are taken into account and medical and non-medical criteria are retained. The Committee asks whether the progress from a medical definition of disability to a more general one goes beyond the field of social assistance and if it is endorsed in law.

Education

The Committee recalls that in stated in the Autism-Europe decision (Autism-Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, §48), "the underlying vision of Article 15 is one of equal citizenship for persons with disabilities and, fittingly, the primary rights are those of "independence, social integration and participation in the life of the community. Securing a right to education for children and others with disabilities plays an obviously important role in advancing these citizenship rights". Under Article 15§1, the Committee therefore considers necessary the existence of non-discrimination legislation as an important tool for the advancement of the inclusion of children with disabilities into general or mainstream educational schemes. Such legislation should, as a minimum, require a compelling justification for special or segregated educational systems and confer an effective remedy on those who are found to have been unlawfully excluded or segregated or otherwise denied an

effective right to education. Legislation may consist of general anti-discrimination legislation, specific legislation concerning education, or a combination of the two.

It should be noted that, in the view of the Committee, Article 15 applies to all persons with disabilities regardless of the nature and origin of their disability and irrespective of their age. It thus also covers both children and adults who face particular disadvantages in education, such as persons with intellectual disabilities.

The Committee notes from the report that Act No. 365/2004 on Equal Treatment in Certain Areas and protection against Discrimination (Anti-discrimination Act) entered into force in 2004. This Act amends Act No. 29/1984 on the system of primary and secondary schools and introduced the prohibition of discrimination on the ground of disability. In particular, it provides for two main forms of mainstreaming: individual integration and special class integration. Pupils with disabilities, including intellectual disabilities, are admitted to school upon a diagnosis from the specialized educational counseling institution and after all necessary material, technical, and human arrangements have been carried out in the school. An individual educational training plan must be drafted and regularly revised. Persons who felt discriminated may go before a court for redress.

The Committee notes that the report does not provide any reply neither on the number of pupils attending mainstream education, nor attending special education. It indicates the number of children in care in social service homes: 2 268 in 2003. The Committee asks whether these homes are special education institutions and if this is the case which education is provided to the children. It also asks general information on special education and attendance of children with disabilities to both mainstreaming and special education, including children with intellectual disabilities. Meanwhile it can not establish if the right of persons with disabilities to education is sufficiently guaranteed. Finally the Committee asks information on case law and complaints brought to the appropriate institutions concerning discrimination in access to education.

Vocational training

The Committee notes that Act No. 365/2004 on Equal Treatment in Certain Areas and protection against Discrimination (Anti-discrimination

Act) also concerns training and higher education in the same terms as primary and secondary education.

However, the report does not provide answers to the questions put by the Committee on vocational training. The Committee therefore reiterates them, i.e. the number of places at vocational training facilities, including special facilities, and the extent to which the training offer matches the demand; the number of persons with disabilities attending vocational training, including higher education, and the other forms of special training available; and finally whether training facilities are available for adults living in institutions.

The Committee concludes that the situation in Slovakia is not in conformity with Article 15§1 of the Charter on the grounds that it has not been established that the right of persons with disabilities to education is sufficiently guaranteed.

Paragraph 2 – Employment for persons with disabilities

The Committee takes note of the information provided in Slovakia's report.

The report indicates that 15 620 persons with disabilities, including with severe disabilities, were employed in 2004. Their number represented 1.4 % of total employment. The Committee notes that there has been a substantial reduction in comparison with the previous reference period, when 25 000 persons with disabilities were in employment. Still in 2004 unemployed persons with disabilities were 17 761, which was 4.7 % of the total average monthly number of the registered unemployed. In the previous conclusion these figures were, respectively, 27 237 and 5.5 %.

The Committee finds the figures contradictory unless the explanation is a sharp reduction of the number of persons with disabilities in working age. Moreover, it appears that 290 000 persons with disabilities were registered for the compensation system under Act No. 195/1998 on social assistance. It therefore asks the next report to provide pertinent figures with respect to the total number of persons with disabilities and the number of those in working age, as well as the reasons for the drop in employment of persons with disabilities.

Non-discrimination legislation

The Committee notes from another source¹ that Act No. 365/2004 on Equal Treatment in Certain Areas and Protection Against Discrimination (Anti-discrimination Act) entered into force in 2004. Paragraph 6 of the act prohibits any direct or indirect discrimination in the field of employment, *inter alia*, on the ground of disability. Equal treatment must be guaranteed with respect to access to employment, including recruitment and selection criteria, employment conditions, including remuneration, promotion and dismissal, access to vocational training, and membership and activity in employees' and employers' organizations. Differences in treatment are allowed only when objectively justified by the nature of the occupational activities or the circumstances in which they are carried out.

The Committee recalls that non-discrimination legislation must provide for the adjustment of working conditions (reasonable accommodation) in order to guarantee the effectiveness of non-discrimination legislation in the field of employment. It notes that paragraph 7 of the anti-discrimination legislation contains the duty for employers to implement the necessary measures to enable employees with disabilities to obtain or retain employment, perform and make progress in work, and have access to training. Though the measures needed must not be a disproportionate burden for the employer, refusing to engage a person with disability because of the need of taking adjustments is contravening the Act.

In order to assess whether the right to non-discrimination in employment is effectively guaranteed for persons with disabilities, the Committee asks the next report to indicate how reasonable accommodation is implemented in practice, whether there is case law on the issue and whether has prompted an increase in employment of persons with disabilities in the open labour market.

Anyone who has been discriminated may bring a case before a court in order to obtain the person violating equal treatment to refrain from such conduct, the redressing of situation and adequate satisfaction. If the latter is held not to be sufficient, the victim can seek for non-pecuniary damages in cash, whose amount is set by the court. The burden of proof is shifted.

1. Slovak National Centre for Human Rights, www.snslp.sk.

Act No. 365/2004 also amended Act No. 5/2004 on employment services extending equal treatment to all services relative to access to employment, including education and training needed for the labour market. In this context it is possible for individuals to lodge complaint with the authority responsible for controlling the violation of rights and, if it is not sufficient, go before a court.

The Committee concludes that Act No. 365/2004 brought the situation into conformity with Article 15§2 as regards the existence of anti-discrimination legislation. It nonetheless asks the next report to explain the role and tasks of authorities deemed to control non-discrimination, as well as example of case law on discrimination of persons with disabilities.

Measures to promote employment

There must be obligations on the employer to take steps in accordance with the requirement of reasonable accommodation to ensure effective access to employment and to keep in employment persons with disabilities, in particular persons who have become disabled while in their employment as a result of an industrial accident or occupational disease.

The report indicates the measures available to support employment of persons with disabilities. As regards the implementation of the mandatory quota for employers, the Committee observes that it already asked for information in the two past conclusions. It therefore reiterates its questions on the number of persons with disabilities employed under the quota system, the number of employers subject to the quota, the number of employers who have not met the requirements of the quota and have been subject to additional taxation and lastly, whether the quota system applies in the public sector.

The State provides contributions to persons with disabilities for a work assistant (to help out with all the daily tasks which are necessary to perform working-life) or for engaging in self-employment in sheltered employment. Similarly it provides contributions to employers for establishing sheltered employment and for covering expenses related to its functioning. The Committee asks the next report to give an account of the number or percentage of those disabled persons employed or supported through these measures.

In reply to the Committee the report indicates that, in 2005, there were 2 629 registered sheltered workshops and sheltered workplaces, with a total number of 6 005 job places for persons with disabilities. However, the Committee notes that no reply has been provided to all other questions. In particular it asked information on the difference between sheltered workshops and sheltered workplaces, on the regulations regarding the conditions of work and pay in sheltered employment, as well as to what extent trade unions are involved.

Moreover, the Committee recalls that Article 15§2 of the Charter requires that persons with disabilities be employed in an ordinary working environment. Sheltered employment facilities must be reserved for those persons who, due to their disability, cannot be integrated into the open labour market. They should aim nonetheless to assist their beneficiaries to enter the open labour market. It therefore asks the next report to indicate the measures introduced to enable the integration of persons with disabilities into the ordinary labour market and the rate of progress into it.

The Committee concludes that the situation in Slovakia is not in conformity with Article 15§2 of the Charter on the grounds that it has not been established that the right of persons with disabilities to employment is sufficiently guaranteed.

Article 2 of the 1988 Additional Protocol – Right of workers to be informed and consulted

The Committee takes note of the information provided in Slovakia's report.

Legal framework

The Committee assessed the rules governing the information and consultation of employees pursuant to the Labour Code of 1 April 2002 in its previous conclusion on Article 2 of the 1988 Additional Protocol (Conclusions XVI-2, pp. 816-818). It notes that an amendment to the Labour Code No. 210/2003 Coll. as of 1 July 2003 has modified the rules regarding representation of employees in undertakings and the employees' right to information and consultation.

Article 229 (2) of the Labour Code in its revised version stipulates that employees shall have the right to be informed on the economic and financial situation of their employer and on the presumed development of its activities in a comprehensible manner and appropriate time.

Scope

Personal scope

According to Article 229 (3) of the Labour Code, the information of employees within the undertaking takes place through trade unions as well as works councils and so-called works trustees.

Pursuant to Article 233 of the Labour Code, the works council is a body representing all employees of an undertaking and may be established in undertakings with at least 50 employees. Works trustees can operate in undertakings with less than 50 but at least 5 employees. Pursuant to Article 233 (3) of the Labour Code works trustees shall have the same rights and duties as a works council.

The Committee noted in its previous conclusion that pursuant to Article 236 of the Labour Code, works councils and works trustees may only be established in undertakings where there was no trade union representation. The report specifies that following the aforementioned statutory amendments (No. 210/2003 Coll.), the Labour Code now allows trade unions and works councils to operate concurrently within an undertaking (Article 229 (7) of the Labour Code). The Committee understands that in this event, the trade union

organisation operating in the undertaking reserves the right to information and consultation in relation to collective bargaining whereas the works council shall have the right to information and consultation as regards matters subject to joint decision-making outside the scope of collective bargaining procedures. It asks the next report to confirm that this is actually the case.

In reply to the Committee's question as to whether undertakings managed by public authorities are also covered by the aforementioned provisions of the Labour Code or similar provisions, the report refers to Section 118 of the Act on Civil Service pursuant to which civil servants representatives have to be consulted on decisions of their employer regarding, *inter alia*, the conditions of their employment relationship and the regulations governing it as well as on any measures affecting a greater number of civil servants. If no trade union is active within the civil service department concerned, civil servants are represented by a personnel council or a personnel trustee.

The report further refers to the Acts No. 552/2003 Coll. on performing work in the public interest and No. 553/2003 Coll. concerning workers' representatives in undertakings managed by public authorities and the Committee asks for further details on the information and consultation rights of employees established under these laws and whether they grant an effective right to be informed and consulted on all matters covered by Article 2 of the 1988 Additional Protocol to all employees in undertakings managed by public authorities or what further rules apply to this category of employees.

Material scope

Article 237 of the Labour Code stipulates that the employer shall inform and consult employees on matters such as the current and envisaged employment and social policy in the undertaking, measures to improve hygiene at work and the working environment, decisions that may result in essential changes in the organisation of work or the contractual terms and conditions affecting the employees as well as measures to prevent accidents at work and occupational diseases. The Committee understands that the right to information and

consultation covers all issues addressed in Article 2 of the 1988 Additional Protocol and asks the next report to confirm that this is actually the case.

In addition, an obligation of the employer to inform and consult with employees' representatives applies in special cases such as in the event of collective redundancies (Article 73 of the Labour Code), transfer of rights and obligations resulting from an employment relationship from an employer to his legal successor (Article 29 of the Labour Code) or an insolvency of the employer (Act No. 461/2003 Coll. on social insurance).

Rules and procedures

The Committee notes that pursuant to Article 234 (1) of the Labour Code, in undertakings employing between 50 to 100 workers, works councils shall have at least 3 members and in undertakings employing between 101 to 500 workers, there shall be one additional member per 100 employees. In undertakings employing between 501 to 1 000 workers the works council shall at least have one additional member and in undertakings having more than 1 001 employees there shall be at least one additional member per 1 000 employees.

An employer is obliged to hold works council elections in the event at least 10 % of the employees of an undertaking have made a corresponding request. All employees having at least worked for three months in the undertaking have the right to vote. A list of candidates is proposed by at least 10 % of the employees or by the relevant trade union body. From this list, candidates are elected directly by secret ballot. The elections are valid if an absolute majority of the employees entitled to vote have participated. The candidates who receive the greatest number of votes are elected as members of the works council for a period of four years.

Works trustees are elected by direct and secret ballot by the absolute majority of the employees present at the elections. The Committee asks how the candidates running for works trustees elections are nominated. The Committee further asks what are the corresponding rules and procedures for the election of personnel councils or a personnel trustees in the public service.

The Committee takes note of the comments on the report by the Confederation of Trade Unions of Slovakia (KOZ) pursuant to which in

practice employers do not comply with their obligations as regards the information and consultation of employees and their representatives. The KOZ states that Slovak statutory law does not provide for a detailed procedure in connection with the information and consultation of employees like e.g. as regards the intervals in which information has to be provided. The Committee asks for the Government's comments in this respect and wishes in particular to receive information on the implementation of the relevant legal provisions in practice.

Pursuant to Article 238 (2) of the Labour Code, information has to be provided by the employer in a comprehensible manner and appropriate time. The Committee notes that in the case of collective redundancies or the transfer of rights and obligations resulting from an employment relationship the employees' representatives have to be provided with the relevant information one month prior to the adoption of the envisaged measure whereas in the case of insolvency information has to be provided within five days after insolvency has occurred. The Committee asks the next report to specify what is considered as an appropriate time frame for the information and consultation of employees in the cases where this is not explicitly provided by law.

Enforcement

The Committee recalls that the rights guaranteed by Article 2 of the Additional Protocol must be effectively protected. In particular, workers must have legal remedies when they are not respected. There must also be sanctions for employers which fail to fulfil their obligations under this Article.

The Committee again refers to the comments on the report by the KOZ pursuant to which in practice employers do not comply with their obligations as regards the information and consultation of employees and their representatives. According to the KOZ, this follows in particular from the fact that Slovak law does not impose adequate sanctions on employers violating their information and consultation obligations. The KOZ points out that the only explicit sanction in this respect applies in the case of failure to inform employees on the termination of employment relationships. The Committee asks for the Government's comments in this respect.

According to the report, employees' representatives or workers may in their individual capacity file complaints with the National Labour Inspectorate which is under a statutory obligation to deal with the complaint. The Committee asks the next report to provide more details on the competences of the Labour Inspectorate as regards the violation of the employer's obligation to inform and consult employees and what are the sanctions that may be imposed by the Inspectorate in this respect. It further reiterates its question what other remedies are available to works councils, works trustees or workers in the event their right to information and consultation is violated by employers.

Conclusion

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

Article 3 of the 1988 Additional Protocol – Right of workers to take part in the determination and improvement of the working conditions and working environment

The Committee takes note of the information provided in the Slovak report.

Article 229 (1) of the Labour Code stipulates that with a view to ensure just and satisfactory working conditions, employees shall participate in decision-making of the employer concerning their economic and social interests, either directly or via their representatives, i.e. the competent trade union body, the works councils or the works trustees. Participation in the creation of just working conditions includes negotiation, joint decision-making and inspection activities (Article 229 (4)).

The report states that the rules on the participation in the determination and improvement of the working conditions and working environment and occupational health and safety protection apply to all categories of workers and all employers including undertakings managed by public authorities as well as to civil servants (Sections 146 to 150 of the Labour Code).

As regards the different categories of employees' representatives, the conditions of their nomination and election as well as their functions, the Committee refers to its conclusion under Article 2 of the 1988 Additional Protocol. The Committee notes that following the amendment of the Labour Code No. 210/2003 Coll. as of 1 July 2003, trade unions and works councils are now allowed to operate concurrently within an undertaking (Article 229 (7) of the Labour Code). The report specifies that the works councils or works trustees have the right to co-decision only regarding matters not already covered by the provisions of a valid collective agreement.

Working conditions, work organisation and working environment

The Committee notes that joint-decision making involving employee representatives relates mainly to the employer's decision-making process regarding the organisation of working time (see e.g. Section 87 of the Labour Code).

Section 237 of the Labour Code lists subject-matters not being decided jointly by employers and employees but which are nevertheless subject to prior negotiation with the employees' representatives. Pursuant to this provision, an employer shall inform and consult the employees' representatives and take into consideration their opinion to the extent possible on issues such as the current and envisaged employment and social policy in the undertaking, measures to improve hygiene at work and the working environment, decisions that may result in essential changes in the organisation of work or the contractual terms and conditions affecting the employees as well as measures to prevent accidents at work and occupational diseases. The Committee considers that the worker's right to take part in the determination and improvement of the working conditions and working environment implies that workers may contribute, to a certain extent, to the employer's decision making process. It asks for information in which manner and to what extent an employer has to take into account the opinion of the employees representatives when taking a decision in the matters covered by Section 237 of the Labour Code.

Protection of health and safety

The Committee noted in its previous conclusion (Conclusions XVI-2, p. 819) that the workers' right to contribute to the protection of their health and safety is ensured through the trade unions represented within the undertaking as well as through health and safety representatives.

Trade unions and health and safety representatives are granted the right to participate in the adoption of all measures relating to health and safety. In addition, they have the right to carry out inspections, to request the removal of particular risks, to enjoin the employer to investigate accidents and to participate in such investigations.

The Committee notes from the report that a new Act No. 124/2006 Coll. on occupational safety and health protection entered into force on 1 July 2006, i.e. outside the reference period, and asks for information what are the rules regarding employees' participation on matters regarding the protection of health and safety within the undertaking under the new legislation.

Organisation of social and socio-cultural services and facilities

The Committee reiterates its question as to how workers' representatives participate in the organisation of social and socio-cultural services to the extent these services exist.

Enforcement

The Committee recalls that workers must have legal remedies in the event their right to take part in the determination and improvement of the working conditions and working environment in the undertaking is not respected.

The report refers in this context to Section 10, paragraph 3 (d) of Act No. 330/1996 Coll. on occupational safety and health protection as amended stipulating that in the event the employer fails to eliminate shortcomings in the protection of health and safety at the workplace which the employees' representatives have pointed out, the latter may file a complaint with the labour inspection bodies and supervision authorities.

The Committee already noted in its conclusion under Article 2 of the 1988 Additional Protocol that employees' representatives or workers may in their individual capacity file complaints with the National Labour Inspectorate which is under a statutory obligation to deal with the complaint. The Committee asks the next report to provide more details on the competences of the Labour Inspectorate as regards the violation of the employee's right to take part in the determination and improvement of the working conditions and working environment. It also asks what other remedies are available to works councils, works trustees or workers in the event this right is violated by employers.

The Committee further refers to the comments on the report with respect to Article 2 of the 1988 Additional Protocol by the Confederation of Trade Unions of Slovakia (KOZ) pursuant to which in practice employers do not comply with their obligations as regards the information and consultation of employees and their representatives. According to the KOZ, this follows in particular from the fact that Slovak law does not impose adequate sanctions on employers violating their information and consultation obligations. The Committee notes that the comments of the KOZ only relate to the employee's right to information and consultation and asks the Government to specify whether adequate sanctions exist in the event employers do not respect the right of workers to take part in the determination and improvement of the working conditions and working environment.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Slovakia is in conformity with Article 3 of the 1988 Additional Protocol to the Charter.