January 2015

European Social Charter

European Committee of Social Rights

Conclusions XX-3 (2014)

(GREECE)

Articles 2 and 4 of the 1961 Charter

and Articles 2 and 3 of the 1988 Additional Protocol

This text may be subject to editorial revision.

The role of the European Committee of Social Rights (the Committee) is to rule on the conformity of the situation in States Parties with the 1961 European Social Charter (the 1961 Charter) and the 1988 Additional Protocol (the Additional Protocol). The Committee adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure.

Information on the 1961 Charter, statements of interpretation, and general questions from the Committee, are reflected in the General Introduction to all Conclusions.

The following chapter concerns Greece, which has ratified the 1961 Charter on 6 June 1984. The deadline for submitting the 24th report was 31 October 2013 and Greece submitted it on 25 November 2013. On 28 March 2014, a request for additional information regarding Articles 4§3 and 4§5 was sent to the Government, which submitted a reply on 13 June 2014. Comments on the report by the Greek National Commission for Human Rights and the Greek National Confederation of Labour were registered on 15 January 2014.

The report concerns 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).

Greece has accepted all Articles from this group except 5, 6§1, 6§2, 6§3 and 6§4.

The reference period was from 1 January 2009 to 31 December 2012.

The conclusions on Greece concern 12 situations and are as follows:

- 3 conclusions of conformity: Article 2§3, and Articles 2 and 3 of the Additional Protocol.
- 5 conclusions of non-conformity: Articles 2§2, 2§4, 2§5, 4§1 and 4§4.

In respect of the other 4 situations related to Articles 2§1, 4§2, 4§3 and 4§5, the Committee needs further information in order to examine the situation. The Committee considers that the absence of the information requested in respect of Article 2§1 amounts to a breach of the reporting obligation entered into by Greece under the 1961 Charter. The Committee requests the Government to remedy that situation by providing this information in the next report.

The next report to be submitted by Greece will be a simplified report dealing with the follow up given to decisions on the merits of collective complaints in which the Committee found a violation.

The deadline for submitting that report was 31 October 2014.

Conclusions and reports are available at www.coe.int/socialcharter.

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 Greece. It also takes notes of the information contained in the comments by the Greek National Commission for Human Rights (GNHCR) of 9 October and 1 December 2014.

In its previous conclusion (Conclusions XIX-3 (2010)) the Committee held that the situation in Greece was in conformity with the Charter.

The Committee notes from the report that there have been amendments to the legislation regulating working time. Namely, in the private sector Law 4093/2012 allows the minimum daily rest period to be reduced to 11 hours. In the public sector Law 3979/2011 has increased the weekly working time from 37 to 40,5 hours for some categories of workers. The Committee notes from the comments of the Greek National Commission for Human Rights that Act 4093/2012 will have an adverse impact on workers' health and safety. The Committee also notes that for shop employees derogations have been allowed from the five-day working week by means of collective agreements.

The Committee observes that with the amendments in the private sector, the daily rest time may be reduced to 11 hours and therefore the daily working hours may be as long as 13 hours. The Committee asks whether in such cases the maximum limit of 60 hours per week is still maintained for all categories of workers, including shop employees.

In reply to the Committee's question, the report states that the tasks of the Labour Inspectorate include monitoring and controlling the implementation of the labour law provisions. In 2012 the labour inspectorate issued 675 fines to employers for exceeding the working time provisions.

The Committee recalls that in its decision on the merits of 23 June 2010 *Confédération générale du travail (CGT) v. France* (§§ 64-65), Complaint No 55/2009, it held that when an on-call period during which no effective work is undertaken is regarded a period of rest, this violated Article 2§1 of the Charter. The Committee found that the absence of effective work, determined *a posteriori* for a period of time that the employee *a priori* did not have at his or her disposal, cannot constitute an adequate criterion for regarding such a period a rest period. The Committee holds that the equivalisation of an on-call period to a rest period, in its entirety, constitutes a violation of the right to reasonable working hours, both for the stand-by duty at the employer's premises as well as for the on-call time spent at home.

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

Conclusion

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

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 Greece. It also takes notes of the information contained in the comments by the Greek General Confederation of Labour (GSEE) of 15 January 2014 and in those of the Greek National Commission for Human Rights (GNHCR) of 9 October 2014.

It notes from the report that there has been no change to the situation that it has previously considered not to be in conformity with the Charter (Conclusions XIX-3 (2010)). In fact, under the Royal Decree 748/1966, private-sector employees who work on a public holiday are entitled to their daily wage plus a supplement of 75% but not to compensatory days off, while public sector employees are entitled to a compensatory rest day (1 day worked = 1 day off), but not to an increased wage. The Committee asks whether, in this case, employees are entitled nevertheless to their daily wage, in addition to the compensatory rest day.

The Committee recalls that work performed on a public holiday entails a constraint on the part of the worker, who should be compensated. Considering the different approaches adopted in different countries in relation to the forms and levels of such compensation and the lack of convergence between states in this regard, the Committee considers that States enjoy a margin of appreciation on this issue, subject to the requirement that all employees are entitled to an adequate compensation when they work on a public holiday. In this respect, in light of the information available, the Committee considers that a compensation corresponding to the basic daily wage increased by 75% is not sufficiently high to constitute an adequate level of compensation for work performed on a public holiday. Accordingly, it concludes that the situation in Greece is not in conformity with Article 2§2 of the Charter.

Conclusion

The Committee concludes that the situation in Greece is not in conformity with Article 2§2 of the 1961 Charter on the ground that, in the private sector, work performed on a public holiday is not adequately compensated.

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 Greece. It also takes notes of the information contained in the comments by the Greek General Confederation of Labour (GSEE) of 15 January 2014 and in those of the Greek National Commission for Human Rights (GNHCR) of 9 October and 1 December 2014.

It previously noted (Conclusions XIX-3 (2010)) that a person having completed 12 months of continuous employment is entitled to 20 or 24 working days of annual leave (depending on whether the person works five or six days a week), which is increased by one working day for each year of employment in addition to the first year, up to a maximum of respectively 26 and 31 working days. Workers in employment for less than 12 months are entitled to a percentage of the normal annual paid leave which is proportional to the time spent in service.

The Committee notes from the report that, in the public sector, the situation has not changed: employees are required to take 15 days of leave between 15 May and 30 October every year and to use the annual leave by the end of the calendar year, no deferral of annual leave being allowed unless the annual leave was cancelled, reduced or not granted because of an emergency in the workplace. In the private sector, the Committee noted that annual leave must also be used by the end of the calendar year, but no rule provides for the carrying over of leave exceeding the 15 days of compulsory annual leave. It notes from the report, that under new legislation of 2012 (Act No. 4093/2012), in order to meet the seasonal needs arising in certain enterprises, the employer may divide the leave into two periods, the first of which should not be shorter that five or six consecutive working days (depending on whether the working week is five or six days).

The Committee recalls that an employee must take at least two weeks uninterrupted annual holidays during each year, and asks whether this is the case in Greece. It also asks the authorities to clarify in the next report whether, in the absence of provisions allowing the deferral of leave in the private sector, what arrangements apply in such cases and whether leave not taken is lost. It furthermore asks the next report to provide updated information on whether and under what circumstances, both as regards the public and the private sector, workers can postpone the days of leave which they could not use because of illness or injury. In the meantime it reserves its position on this issue.

Conclusion

Pending receipt of the requested information, the Committee concludes that the situation in Greece is in conformity with Article 2§3 of the 1961 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 Greece.

The Committee points out that the States party to the Charter are required to eliminate risks in inherently dangerous or unhealthy occupations. In view of the changing practices of States in this regard, placing emphasis on the prevention and elimination of occupational hazards, it takes account of these developments in its assessment of conformity with Article 2§4 of the 1961 Charter (Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006). Accordingly, it examines firstly what measures have been taken to progressively eliminate the inherent risks in dangerous or unhealthy occupations. Secondly, it examines what compensatory measures are applied to workers who are exposed to risks that cannot be or have not yet been eliminated or sufficiently reduced, either in spite of the effective application of the preventive measures referred to above or because they have not yet been applied.

Elimination or reduction of risks

The Committee refers to its conclusion under Article 3§1 of the 1961 Charter (Conclusions XX-2 (2013)) for a description of dangerous activities and the preventive measures taken in their respect. It notes that the situation was found not to be in conformity with the Charter on the ground that self-employed workers are not sufficiently covered by occupational health and safety regulations.

Measures in response to residual risks

The Committee previously noted (Conclusions XVIII-2 (2006)) that the law provided for reduced working hours and/or additional paid holidays for workers engaged in certain activities such as radiology, construction, printing (state sector) and work in front of computer screens. It also noted that similar measures had been agreed in a number of enterprise and sector-level collective agreements, for instance in respect of workers in the iron and steel industry, workers in the oil and gas industry, printers, electricians and repairers of ships. Workers in certain public companies (for example, telecommunications, airways etc.) also benefited from such measures. It asks the next report to confirm that the situation in this respect has not changed by providing updated information on the matter.

As regards the situation of workers in underground mines, the Committee refers to the assessment below.

Follow-up of collective complaint Marangopoulos Foundation for Human Rights (MFHR) v. Greece (Complaint No. 30/2005, decision on the merits of 12 June 2006)

The Committee found in the complaint Marangopoulos Foundation for Human Rights (MFHR) v. Greece (Complaint No. 30/2005, decision on the merits of 12 June 2006) that Article 2§4 had been violated because Greek legislation did not require collective agreements to provide for compensation pursuant to the aim intended by Article 2§4, although employers and employees are of course at liberty to include such measures themselves. The Committee considered therefore that the collective bargaining procedure did not offer sufficient safeguards to ensure compliance with Article 2§4, and noted that no subsequent steps had been taken by the Government to enforce the right embodied in Article 2§4. In its previous conclusion (Conclusions XIX-3 (2010)) it held that the situation was not yet in conformity with the Charter in

this respect, insofar as not all employees working underground were entitled to compensatory time off.

The report states that in 2012 there were 473 workers in underground mines, representing less than 3% of the total number of workers in the mining sector and that the intensification of inspections has progressively reduced the number of fatal accidents in mines. The Committee notes that a new Collective Labour Agreement on Mines was signed in 2011, which provides for the payment of an unhealthy work allowance to workers in metal mines, lignite mines and quarries. The Committee points out in this respect that under no circumstances can financial compensation be considered an appropriate response compliant with Article 2§4. It also considers that the additional measures provided for in the collective agreement – one additional day of public holiday and the setting of the weekly period of work at 40 hours – do not adequately correspond to the aim of offering workers exposed to risks regular and sufficient time to recover from the associated stress and fatigue, and thus maintain their vigilance in the workplace. In the light of the information provided in the report on early retirement for mine workers, the Committee does not consider that such a measure is relevant and appropriate to achieve the aims of Article 2§4. Accordingly, considering the fact that no appropriate measures have been taken to remedy the shortcomings found in the complaint No. 30/2005, the Committee maintains its finding of non conformity with Article 2§4 of the Charter.

Conclusion

The Committee concludes that the situation in Greece is not in conformity with Article 2§4 of the 1961 Charter on the ground that workers exposed to residual risks in the mining industry do not all benefit from adequate compensatory measures.

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 Greece. It also takes notes of the information contained in the comments by the Greek General Confederation of Labour (GSEE) of 15 January 2014 and in those of the Greek National Commission for Human Rights (GNHCR) of 9 October and 1 December 2014.

In response to the finding of non conformity in the conclusion XIX-3 (2010) on grounds that domestic staff and seamen were not covered by the legislation guaranteeing a weekly rest period, the authorities indicate in the report that seafarers, including those working in the fishing sector, are entitled to one day of rest per week under Presidential Decree 152/2003. On this point, the Committee therefore considers that the situation is in conformity with the Charter.

As regards domestic staff, on the other hand, the Committee notes from the report that Greece has not yet ratified ILO Convention No. 189 concerning Decent Work for Domestic Workers, adopted in 2011, nor has it modified its legislation. Accordingly, the Committee repeats its finding of non-conformity with Article 2§5 of the Charter on the ground that the law does not provide for the right of domestic workers to a weekly rest period.

In the light of the comments by the GNHCR, the Committee furthermore asks the next report to clarify how Act No. 4093/2012 has affected the right to a weekly rest period.

Conclusion

The Committee concludes that the situation in Greece is not in conformity with Article 2§5 of the 1961 Charter on the ground that domestic workers are not covered by the legislation guaranteeing a weekly rest period.

Article 4 - Right to a fair remuneration

Paragraph 1 - Decent remuneration

The Committee takes note of the information contained in the report submitted by Greece. It also takes notes of the information contained in the comments by the Greek General Confederation of Labour (GSEE) of 15 January 2014 and in those of the Greek National Commission for Human Rights (GNHCR) of 9 October and 1 December 2014.

It previously deferred its conclusion (Conclusions XIX-3 (2010)) pending the receipt of information showing that the minimum wage together with additional benefits met the requirement of enabling a decent standard of living.

The report describes the major legislative reforms undertaken in this field during the reference period.

With regard to the public sector, Act No. 3833/2010 of 15 March 2010 on protection of the national economy – emergency measures to address the fiscal crisis reduced the salaries of tenured civil servants and eliminated a number of bonuses, compensatory payments and allowances with effect from 1 January 2010. Act No. 3845/2010 of 6 May 2010 on measures for the implementation of the support mechanism for the Greek economy by Eurozone member states and the International Monetary Fund introduced further reductions as from 1 June 2010, established a general ceiling of €3 000 on the payment of bonuses and compensatory amounts, and extended the scope of the legislation to contractual staff in the civil service, including those in receipt of the minimum wage. Act No. 4024/2011 of 27 October 2011 on pension schemes, workers' remuneration and other provisions for the implementation of the medium-term fiscal strategic plan 2012-2016 (the Strategic Plan) increased the reductions applicable to tenured civil servants and contractual staff in the civil service as from 1 November 2011 and indexed the starting wage in each category to the gross minimum wage for the "compulsory education" category. It also reformed the benefits and allowances system and maintained the extension of the measures to contractual staff in the civil service by setting aside the collective agreements in force. The Joint Ministerial Order No. 2/13917/0022 of 17 February 2012 set the minimum wage for the "compulsory education" category at €780.00 (€9 360.00 over 12 months), and that of tenured civil servants governed by Act No. 3205/2003 (judges, physicians, university lecturers, members of the armed and police forces) at €1 138.72 (€13 364.64 over 12 months).

With regard to the private sector, section 37 of Act No. 4024/2011 authorised, with effect from 1 November 2011, the conclusion of company agreements taking precedence over the collective agreements in force, until the completion of the Strategic Plan, including agreements which contained less favourable conditions. Such agreements may, however, not stipulate less favourable conditions than those included in the National General Collective Labour Agreement (NGCA). Section 1, paragraph 1 of Council of Ministers Act No. 6/2012 of 28 February 2012 implementing section 6, paragraph 1 of Act No. 4046/2012 reduced the minimum wage determined by the NGCA by 22%, as from 14 February 2012. It also reduced the minimum wage for employees under the age of 25 and for trainees covered by section 74, paragraph 9 of Act No. 3863/2010 by 32%. Circular No. 4601/304 of 12 March 2012 sets the minimum gross monthly wage of unmarried workers over 25 years of age at €586.08 over 14 months (€8 205.12 over 12 months) and of those workers under 25 years of age at €510.95 over 14 months (€7 153.30 over 12 months). Section 1, paragraph IA, sub-paragraph 11, case 2a of Act No. 4093/2012 of 12 November 2012 approving the Medium-term Fiscal Strategic Plan 2013-2016, implementing measures of Act No. 4046/2012 and the Medium-term Fiscal Strategy Framework 2013-2016 provides that the general minimum wage will henceforth be determined by the NGCA, which applies solely to the staff of employers who are members of the signatory

employer organisations. Circular No. 26352/839 of 28 November 2012 confirms the minimum wages laid down by Circular No. 4601/304.

In addition, section 38 of Act No. 4024/2011 reduced the general tax-free threshold for wages and salaries from €12 000.00 to €5 000.00, plus €2 000.00 for the first and the second child. The award of subsidised loans and housing benefits by the Workers' Housing Agency (OEK) was restricted and/or suspended in 2010. The OEK's competence and funds were transferred to the Hellenic Manpower Employment Organisation (OEAD) under Council of Ministers Act No. 7/2012 of 28 February 2012, with a view to terminating the outstanding loans and benefit entitlements.

According to EUROSTAT data for 2012 (table "earn_nt_net"), the annual average wage of a single worker without children (100% of an average worker) was €22 240.87 (or €1 853.41 per month over 12 months) gross and €16 322.10 (€1 360.18 per month over 12 months) net of social contributions and tax deductions.

The Committee notes the ILO Committee of Experts on the Application of Conventions and Recommendations' (CEACR) serious concern (Convention No. 95 on Wages Protection (1949): Observations, adopted 2012, published at the 102th ILC session (2013)) about the cumulative effect recent budget cuts and reductions in the national minimum wage have on workers' income, purchasing power and living standards, as well as on compliance with labour standards related to wage protection. It also notes that, according to the GNHCR comments, the abundance of complex, contradicting and ever changing austerity measures exacerbate a general feeling of insecurity, and that 34.60% of the population were at risk of poverty in 2012.

The Committee further refers to the terms of the GNHCR Recommendation of 8 December 2011 on the imperative need to reverse the sharp decline in civil liberties and social rights, in particular to the call to take the fiscal measures' impact on social protection and security into account and to undertake action so that every measure of economic governance be adopted and implemented with due respect for, and in a manner that safeguards, civil liberties and social rights.

The Committee reiterates that, to comply with Article 4§1 of the 1961 Charter, a decent wage must exceed the minimum threshold, set at 50% of the national net average wage. This is the case when the net minimum wage exceeds 60% of the national net average wage. Where the net minimum wage is between 50% and 60% of the national net average wage, it is for the State Party to establish that this wage makes it possible to ensure a decent standard of living (Conclusions XIV-2 (1998), statement of interpretation on Article 4§1). It notes in the present case that, after deduction of social security contributions and income tax, which has been applicable since the reduction in the tax-free threshold under Act No. 4024/2011, the minimum wage for all single workers in the private sector is below the minimum threshold. It also observes that, while the wages of tenured civil servants governed by Act No. 3205/2003 are in conformity with Article 4§1 of the 1961 Charter, the minimum wage for contractual staff in the civil service is less than the minimum threshold and accordingly does not permit a decent standard of living.

The Committee notes from the GNHCR's comments that, subsequent to the reference period, a regime for employees on fixed-term contracts in community service programmes was instituted under section 1, paragraph ID, sub-paragraph 1 of the Act No. 4152/2013 of 9 May 2013 on implementing measures for emergency Acts No. 4046/2012, 4093/2012 and 4127/2013 and Joint Ministerial Order No. 3/24541/Oik/3/1574/2013, providing for gross monthly wages of €490.00 for employees over 25 years of age and €427.00 for those under 25 years of age which are below the minimum wage. It also notes the introduction of a 5% increase in wages every

three years reserved for long-term unemployed persons over 25 years of age hired as employees under section 1, paragraph IA, sub-paragraph 7 of Act No. 4254/2014 of 7 April 2014 on measures of support for and development of the Greek economy in the application of Act No. 4046/2012 and other provisions. It notes that the Council of Ministers Act No. 6/2012 was partially invalidated by the decision of the Council of State (Plenary) No. 2307/2014. The Committee asks that the next report provide detailed information on these measures and their usefulness to reinstate decent remuneration in the private and public sectors as well as their conformity with Article 4§1 of the 1961 Charter.

Follow-up given to collective complaint No. 66/2011 General Federation of employees of the national electric power corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece, decision on the merits of 23 May 2012

The Committee refers to its decision on the merits of collective complaint No. 66/2011 in which it held that:

- The provisions of section 74, paragraph 8 of Act No. 3863/2010 and of section 1, paragraph 1 of Council of Ministers Act No. 6/2012 are not in conformity with Article 4§1 of the 1961 Charter in that they provide for the payment of a minimum wage to all workers under the age of 25 which is below the poverty level;
- The provisions of section 74, paragraph 8 of Act No. 3863/2010 and of section 1, paragraph 1 of Council of Ministers Act No. 6/2012 are not in conformity with Article 4§1 of the 1961 Charter in the light of the non-discrimination clause of the Preamble to the 1961 Charter.

The Committee also refers to Resolution ResChS(2013)2 adopted by the Committee of Ministers on 5 February 2013. It notes that the Government informed the Committee of Ministers that section 74, paragraph 8 of Act No. 3863/2010 and section 1, paragraph 1 of Council of Ministers Act No. 6/2012 were of a provisional nature and would be revoked as soon as the country's economic situation allowed. The report contains no information on this matter.

The Committee notes that, since the publication of the decision on the merits, section 1, paragraph IA, sub-paragraph 11, case 2a of Act No. 4093/2012 has been passed, stipulating that the general minimum wage will be determined by the NGCA, applying solely to the staff of employers which are members of the signatory employer organisations. Circular No. 26352/839 has confirmed the minimum earnings laid down by Circular No. 4601/304. The Committee considers that the amendments introduced by section 1, paragraph IA, sub-paragraph 11, case 2a of Act No. 4093/2012 have not redressed the breaches of Article 4§1 of the 1961 Charter and concludes that the follow-up given by Greece to collective complaint No. 66/2011 is inadequate. It asks that the next report contain information on measures taken to remedy the situation.

Conclusion

The Committee concludes that the situation in Greece is not in conformity with Article 4§1 of the 1961 Charter on the grounds that:

- The minimum wage applicable to contractual staff in the civil service is not sufficient to ensure a decent standard of living;
- The minimum wage applicable to private sector workers is not sufficient to ensure a decent standard of living;
- The provisions of section 74, paragraph 8 of Act No. 3863/2010 and of section 1, paragraph 1 of Council of Ministers Act No. 6/2012 provide for the payment of a minimum wage to all workers under the age of 25 which is below the poverty level;

- The provisions of section 74, paragraph 8 of Act No. 3863/2010 and of section 1, paragraph 1 of Council of Ministers Act No. 6/2012 discriminate against workers under the age of 25.

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 Greece.

The Committee notes from the report that Law 3863/2010 amending Law 3385/05 established new remuneration rates for overtime, at 20% for the first five hours, 40% up to 120 annual hours and 60% over 120 annual hours of overtime. For each exceptional overtime hour, the hourly remuneration is increased by 80%.

In reply to the Committee's question (Conclusions XIX-3 (2010)), the report states that provisions regarding overtime do not contain the possibility of granting a day off instead of the legal remuneration to employees. However, according to Article 42 of Law 3986/2011, for employees having worked overtime, the working time will be reduced in another time period. Up to 256 working hours from the total employment time within one year may be allocated to specific time periods and the working hours in the remaining period (non-specific period) will respectively be decreased. The employee may be granted additional annual leave, the length of which will correspond to the overtime hours worked.

The Committee notes that the described system is the flexible working time system, in which weekly working hours may vary between specified maximum and minimum figures without any of them counting as overtime, and thus not qualifying for a higher rate of pay. The Committee understands that the only case of overtime work under this system would be if the worker is asked to work beyond the reduced weekly working hours in non-specific time periods, for which the worker concerned will receive an increased remuneration in the meaning of Law 3863/2010.

The Committee asks whether in the flexible working time arrangement the maximum limits of weekly working time can go beyond 60 hours. It also asks whether the increased remuneration for overtime as foreseen by Law 3863/2010 can be replaced by reduced working hours in the meaning of Law 3986/2011 and if yes, whether the reduction would be of an equal length to the overtime worked.

The Committee asks whether there are any exceptions to the right to an increased remuneration for overtime work.

Conclusion

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

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 Greece.

Legal basis of equal pay

The Committee notes from the report that the principle of equal remuneration for work of equal value is enshrined in the Constitution and forms part of the new institutional framework for the implementation of the principle of equal treatment of men and women in matters of employment and occupation. More specifically, Law 3896/2010 defines direct and indirect discrimination and provides that men and women are entitled to equal pay for the same work or for work of equal value.

In addition, Article 4 of the same law provides that where a job classification system is used for determining pay, it shall be based on the same criteria for both men and women and so drawn up as to exclude any discrimination on grounds of sex.

Guarantees of enforcement and judicial safeguards

The Committee recalls that domestic law must provide for appropriate and effective remedies in the event of alleged wage discrimination. Employees who claim that they have suffered discrimination must be able to take their case to court (Conclusions I, Statement of Interpretation on Article 4§3). The burden of proof must be shifted and anyone who suffers wage discrimination on grounds of gender must be entitled to adequate compensation, that is compensation which is sufficient to make good the damage suffered by the victim and act as a deterrent to the offender (Conclusions XIII-5, Statement of Interpretation on Article 1 of the Additional Protocol).

The Committee observed in its conclusion on Article 1 of the Additional Protocol (Conclusions 2008, Greece) that a person who believes that he or she has been discriminated may take their case to the court. The legislation does not provide for a limit to the amount of compensation that may be awarded should the court find a violation.

The Committee recalls that legislation must provide effective protection against any retaliatory measures taken by the employer against a worker asking to benefit from the right to equal pay (Conclusions XIII-5 (1997), Statement of Interpretation on Article 1 of the Additional Protocol). The latter requirement includes in particular an obligation to prohibit dismissal in such cases and in cases of unlawful dismissal to provide for the reinstatement of the workers. In exceptional cases, where reinstatement is not possible or is not desired by the worker, financial compensation instead may be acceptable, but only if it is sufficient to deter the employer and to compensate the worker. Any compensation must, as a minimum cover the difference in pay (Conclusions XVI-2, Malta). The Committee asks what rules apply in this regard.

Methods of comparison and other measures

The Committee notes that the Government failed to reply to its supplementary question whether in equal pay litigation cases it is possible to make comparisons of pay and jobs outside the company directly concerned.

In its Statement of Interpretation on Article 20 (Conclusions XIX-1 (2012)) the Committee stated that Article 1 of the Additional Protocol requires that in equal pay litigation cases the legislation should allow pay comparisons across companies in one or more of the following situations:

- cases in which statutory rules apply to the working and pay conditions in more than one company;
- cases in which several companies are covered by a collective works agreement or regulations governing the terms and conditions of employment
- cases in which the terms and conditions of employment are laid down centrally for more than one company within a holding (company) or conglomerate.

The Committee considers that this interpretation also applies, *mutatis mutandis*, to Article 4§3.

The Committee asks whether domestic law makes provision for comparisons of pay to extend outside the company directly concerned.

The Committee notes from Eurostat that the gender pay gap in unadjusted form stood at 15% in 2010.

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 Greece. It also takes note of the information contained in the comments by the Greek General Confederation of Labour (GSEE) of 15 January 2014 and in those of the Greek National Commission for Human Rights (GNHCR) of 9 October and 1 December 2014.

It previously concluded (Conclusions XIX-3 (2010)) that the situation was not in conformity with Article 4§4 of the 1961 Charter on the ground that manual workers with fewer than 20 years of service were not entitled to an adequate severance pay.

The report gives details of the laws and regulations adopted during the reference period. The notice period is now set out in Act No. 4093/2012 of 12 November 2012 approving the Medium-Term Fiscal Strategic Plan 2013-2016, implementing measures of Act No. 4046/2012 and of the Medium-Term Fiscal Strategy Framework 2013-2016.

Under section 1, paragraph IA, sub-paragraph 12, case No. 1, of Act No. 4093/2012, private-sector employees on a permanent contract who are dismissed after more than twelve months are entitled to a period of notice plus severance pay amounting to 50% of their salary of:

- One month for between one and two years of service;
- Two months for between two and five years of service;
- Three months for between five and ten years of service;
- Four months for more than ten years of service.

Under case No. 2 of the aforementioned sub-paragraph, employees may be dismissed without notice provided that they are paid severance pay equivalent to 100% of their salary for:

- Two months for between one and four years of service;
- Three months for between four and six years of service;
- Four months for between six and eight years of service;
- Five months for between eight and ten years of service;
- Six months for more than ten years of service;
- One additional month for every additional year of service up to 15 years;
- 12 months for 16 years of service or more.

Under case No. 3 of the aforementioned sub-paragraph, private-sector employees with 17 years of service or more are entitled, in addition to severance pay, to a supplementary payment amounting to 100% of their salary for:

- One month for every additional year of service over 16 years;
- 12 months for 28 years of service or more.

Under case No. 4 of the aforementioned sub-paragraph, the first 12 months of a permanent contract are a probationary period within the meaning of section 17, paragraph 5a of Act No. 3899/2010 of 17 December 2010 on urgent measures for the implementation of the assistance programme for the Greek economy. During this period, contracts may be terminated without notice and without severance pay, and these rules apply to all employees including manual workers.

Manual workers (worker-technicians) are still governed by the rules in section 1, paragraph 1 of the Royal Decree of 16-18 July 1920 extending Act No. 2112/1920 to workers, technicians and servants and section 1 of Act No. 3198/1955 of 9 April 1955 amending and completing provisions on termination of employment. These provisions provide for the payment of severance pay amounting to:

- seven days' wages for between one and two years of service;

- 15 days' wages for between two and five years of service;
- 30 days' wages for between five and ten years of service;
- 60 days' wages for between ten and 15 years of service;
- 100 days' wages for between 15 and 20 years of service.

The Committee notes from the comments of the GSEE that Act No. 4093/2012 considerably reduces notice periods, restricts severance pay to 12 months' salary and imposes a ceiling of €2 000 on supplementary payments. Acording to the comments of the GNHCR, notice period and severance pay reductions jeopardise the notice's purpose, which is to support the worker during search for new employment, and the allowance of supplementary payment to workers with more than 16 years of service creates discrimination in the termination of employment and remuneration on the criterion of hire.

The Committee further refers to the GNHCR Recommendation of 8 December 2011 on the imperative need to reverse the sharp decline in civil liberties and social rights, in particular to the call to take the fiscal measures' impact on social protection and security into account and to undertake action so that every measure of economic governance be adopted and implemented with due respect for, and in a manner that safeguards, civil liberties and social rights.

The Committee takes note of this information. It points out that by accepting Article 4§4 of the 1961 Charter, States Parties undertook to recognise the right of all workers to a reasonable period of notice of termination of employment, the reasonable nature of the period being determined mainly in accordance with the length of service (Conclusions XIII-4 (1996), Belgium). While it is accepted that the period of notice may be replaced by severance pay, such pay should be as a minimum equivalent to the wages that would have been paid during the corresponding period of notice. The Committee considers that in the present case, the periods of notice combined with severance pay are reasonable with regard to Article 4§4 of the 1961 Charter in the cases of termination of employment provided for in section 1, paragraph IA, sub-paragraph 12, cases Nos. 1 to 3 of Act No. 4093/2012, and that severance pay for manual workers provided for under section 1, paragraph 1 of Royal Decree of 16-18 July 1920 and section 1 of Act No. 3198/1955 is not reasonable. It therefore concludes that the situation in Greece is not in conformity with Article 4§4 of the 1961 Charter on this issue.

Follow-up to the collective complaint General Federation of Employees of the National Electric Power Corporation (GENOP-DEI) and Confederation of Greek Civil Servants' Trade Unions (ADEDY) v. Greece, Complaint No. 65/2011, Decision on the merits of 23 May 2012

The Committee refers to its decision on the merits of Collective Complaint No. 65/2011 in which it held that section 17, paragraph 5 of Act No. 3899/2010 constituted a violation of Article 4§4 of the 1961 Charter on the ground that it made no provision for notice periods or severance pay in cases in which an employment contract, which qualified as "permanent" under that Act, was terminated during the probationary period. It also refers to Resolution ResChS(2013)2 of the Committee of Ministers of 5 February 2013.

It notes the statement by the Government to the Committee of Ministers according to which section 17, paragraph 5 of Act No. 3899/2010 was a provisional measure, which would be withdrawn once the country's economic situation so permitted. The report does not provide any information on this matter. The Committee notes that section 17, paragraph 5 of Act No. 3899/2010 was amended after publication of the decision on the merits, by section 1, paragraph IA, sub-paragraph 12, case No. 4 of Act No. 4093/2012, without the violation of Article 4§4 of the 1961 Charter being remedied.

The Committee asks for the next report to provide information on the period of notice applicable to employees on fixed-term contracts, employees of small and medium-sized enterprises, tenured civil servants, contractual staff in the civil service, as well as on other causes of termination of employment such as bankruptcy, invalidity or the death of the employer who is a natural person.

Conclusion

The Committee concludes that the situation in Greece is not in conformity with Article 4§4 of the 1961 Charter on the grounds that:

- The severance pay granted to manual workers is inadequate;
- There are no periods of notice or severance pay in case of termination of employment during the probationary period and the violation noted by the decision on the merits of Collective Complaint No. 65/2011 has not been remedied.

Article 4 - Right to a fair remuneration

Paragraph 5 - Limits to wage deductions

The Committee takes note of the information contained in the report submitted by Greece. It also takes note of the information contained in the comments by the Greek General Confederation of Labour (GSEE) of 15 january 2014 and in those of the Greek National Commission for Human Rights (GNHCR) of 9 October and 1 December 2014.

It has concluded since Conclusions XII-1 (1991) that the situation was in conformity with Article 4§5 of the 1961 Charter.

The report sets out the adoption during the reference period of many legislative and regulatory measures as well as the conclusion of major collective agreements and a range of company agreements. It does not, however, provide any information on the impact of these measures on the limits to wage deductions. The Government did not reply to the Committee's request for additional information of 28 March 2014.

The Committee notes the ILO Committee of Experts on the Application of Conventions and Recommendations' (CEACR) deep concern (Convention No. 95 on Wages Protection (1949): Observations adopted 2012, published at the 102th ILC session (2013)) about the recent rise of difficulties in the payment of wages and the cumulative effect recent budget cuts and reductions in the national minimum wage (SMN) have on workers' income, purchasing power and living standards, as well as on compliance with labour standards related to wage protection. It considers that "when by their nature and scale wage reductions have dramatic effects on large parts of the workforce to the point of rendering practically meaningless the application of most of the provisions of the Convention, the Committee feels obliged to address the situation through the lens of "wage protection" in a broader sense."

The Committee points out that under Article 4§5 of the 1961 Charter, the circumstances in which deductions may be made from wages must be clearly defined by laws, regulations, collective agreements or arbitration awards. It also points out that the aim of Article 4§5 of the Charter is to guarantee that workers protected by this provision are not deprived of their means of subsistence (Conclusions XVIII-2 (2007), Poland). It asks that the next report provide detailed information on the impact of the measures adopted during the reference period on the limits to deductions from wages and in particular on the circumstances as well as on the limits under which such deductions are authorised under the following measures:

- Act No. 3205/2003 establishing a system for the remuneration of established public officials employed by the state, public establishments or local authorities;
- Joint Ministerial Order No. 2/7093/0022 of 5 February 2004 establishing a system for the remuneration of contractual employees of the state, public establishments or local authorities;
- Act No. 3833/2010 on the protection of the national economy and emergency measures in response to the financial crisis;
- Act No. 3845/2010 on measures for the implementation of the support mechanism for the Greek economy by the eurozone member states and the International Monetary Fund;
- Act No. 4024/2011 establishing a system for the remuneration of permanent contractual employees of the state, public establishments and local authorities;
- Act No. 6/2012 establishing implementing regulations relating to section 1, paragraph 6 of Act No. 4046/2012;
- Act No. 4093/2012 establishing a new system to determine the minimum wage for private sector companies.

The Committee also asks that the next report provide the following information: conditions under which wages may be forfeited or assigned to benefit the employer or third parties; the portion of wages protected in case of attachment of wages or deductions made on competing grounds; any additional grounds for deductions permitted by law (such as trade union dues; execution of court or administrative orders; criminal or disciplinary fines; recovery of maintenance or civil claims; failure to achieve targets; compensation of avantage in kind). It then asks whether workers are authorised to waive their right to limits to deductions from wages.

Conclusion

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

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

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

Legal framework

The Committee recalls that Presidential Decree No. 240/06 "On establishing a general framework for informing and consulting employees" incorporated Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 into domestic law.

Scope

Article 2 of the Additional Protocol to the 1961 Charter provides for the right of employees and/or their representatives, be they trade unions, staff committees, works councils or health and safety committees, to be informed of any matter that could affect their working environment, unless the disclosure of such information could be prejudicial to the undertaking. They must also be consulted in good time on proposed decisions that could substantially affect their interests, particularly ones that might have a significant impact on the employment situation in their undertaking.

States may exclude from the scope of this provision those undertakings employing less than a certain number of workers, to be determined by national legislation or practice. In this regard, the Committee considers that thresholds such as these permitted by Directive 2002/14/EC – undertakings with at least 50 employees or establishments with at least 20 employees in any one EU member state – are in conformity with this provision.

In this context, the Committee points out that all categories of worker (all employees holding an employment contract with the company regardless of their status, length of service or place of work) must be included in the calculation of the number of employees enjoying the right to information and consultation (see judgments of the Court of Justice and the European Union, *Confédération générale du travail* and Others, Case No. C-385/05 of 18 January 2007, and *Association de médiation sociale,* Case No. C-176/12 of 15 January 2014).

Personal scope

The report provides the following information on temporary agency workers, employees under a fixed-term employment contract and crews of vessels:

- Law No. 4052/2012 incorporates into domestic law Directive 2008/104/EC of the European Parliament and of the Council on temporary agency work of 19 November 2008. According to this Law, temporary agency workers have a right to information on any vacant posts, are counted for the purposes of calculating the threshold mentioned above and the employer must provide information on the number of these workers and the prospects of hiring them when providing information to workers' representatives.
- There has been no change concerning the information and consultation of employees working under a fixed-term employment contract.
- The information and consultation of crews of vessels plying the high seas are regulated by Presidential Decree 190/2008, which harmonises national law with Directive 2002/14/EC. This Decree applies to vessels employing at least 50 seafarers. In addition, in 2012 Greece ratified the Maritime Labour Convention, 2006 (MLC 2006) of the International Labour Organisation, which establishes the common minimum standards at global level concerning the working conditions and health and

safety of seafarers employed on vessels, while promoting the enhancement of social dialogue on shipping issues.

Material scope

The Committee refers to its previous conclusion regarding the material scope of the right to information and consultation, which it found to be in conformity with Article 2 of the Additional Protocol to the 1961 Charter.

The report provides further information on rotation work, suspension of work, the transfer of undertakings, businesses or parts of businesses or undertakings and European companies.

Pursuant to Law 3899/2010, the employer may, instead of terminating the employment contract, impose a system of rotation work in the enterprise provided that 2 cumulative conditions are met: firstly, reduction of the activities of the enterprise (substantive condition); secondly, the prior information and consultation of the workers' legal representatives and, if there is no trade union nor works council, of all workers (formal condition).

According to Law 3846/2010, the employer has the right to put all or some of its employees on suspension provided that 3 cumulative conditions are met: firstly, written declaration to the employee; secondly, the prior information and consultation of employees' legal representatives and, if there is no trade union nor works council, of all workers; and thirdly the reduction of the economic activities of the enterprise.

The report indicates that there has been no change concerning the information and consultation of workers in the event of the transfer of undertakings, businesses or parts of businesses or undertakings.

Regarding European companies, two Presidential Decrees 91/2006 and 44/2008 provide that the involvement of employees means any mechanism, including the information, consultation and participation of employees' representatives who may exercise an influence on decisions to be taken within the company.

Remedies

The Committee refers to its previous conclusion concerning remedies, in which it found the situation to be in conformity with Article 2 of the Additional Protocol to the 1961 Charter in this respect.

Supervision

Concerning the supervision of the exercise of the right to information and consultation, the Committee asks that the next report provide a full and up-to-date description of the situation.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Greece is in conformity with Article 2 of the Additional Protocol to the 1961 Charter.

Article 3 of the 1988 Additional Protocol - 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 Greece and in the Observations made by the Greek National Commission for Human Rights.

There has been no change to the legal framework regulating the right of workers in public agencies and public law entities to take part in the determination and improvement of working conditions and working environment.

Three legal instruments have been adopted in respect of the private sector: Presidential Decree 82/2010 on the risks arising from physical agents; Law No. 3850/2010 on the "Ratification of the Code of Laws on Workers' Health and Safety" and Ministerial Decision 23280/603/2011 on the "Establishment of Workers' Health and Safety Committees in the Shipbuilding and Repair Zone of Piraeus-Drapetsona-Keratsini-Perama-Salamina". The Committee asks that the next report provide detailed information on each instrument.

The Committee refers to its previous conclusion where it found that the right to contribute to the determination and the improvement of the working conditions, work organisation and working environment was enjoyed by all employees without exception. The Committee wishes the next report to indicate how this right is implemented in practice and its supervision ensured.

The Committee recalls that according to the Appendix, Article 3 of the Additional Protocol to the 1961 Charter "affects neither the powers and obligations of states as regards the adoption of health and safety regulations for workplaces, nor the powers and responsibilities of bodies in charge of monitoring their application" and that the right of workers' representatives to consultation at the enterprise level in matters of health and safety at the workplace is equally dealt with by Article 3 of the 1961 Charter. For the States who have accepted both Article 3 of the 1961 Charter and Article 3 of the Additional Protocol to the 1961 Charter, this issue is examined only under Article 3 of the Additional Protocol to the 1961 Charter.

The Committee also asks to be informed about the national legislation and practice in respect of the right of workers to take part in the protection of health and safety and the organisation of social and socio-cultural services and facilities. Concerning the supervision of these rights the report indicates that upon receipt of a complaint the Inspectorate for Safety and Health at Work is in charge of controlling the compliance with the provisions on the protection of workers' health and safety. The Committee asks to be informed on the supervision of the observance of regulations related to social and socio-cultural services and facilities.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in Greece is in conformity with Article 3 of the Additional Protocol to the 1961 Charter.