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EUROPEAN SOCIAL CHARTER

14th National Report on the implementation of the European
Social Charter

submitted by

THE GOVERNMENT OF CZECH REPUBLIC

- Follow-up to Collective complaints 96/2013
- Complementary information on Articles 7§5 and 8§2 (Conclusions XX-4 (2015))

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CYCLE XXI-2 (2017)

EUROPEAN SOCIAL CHARTER

THE FOURTEENTH REPORT

**ON THE APPLICATION OF THE EUROPEAN SOCIAL CHARTER
SUBMITTED BY THE GOVERNMENT OF THE CZECH REPUBLIC**

I.
Information on the follow-up given to the decision of the European Committee
of Social Rights relating to the collective complaint
No 96/2013
Association for the Protection of all Children Ltd
v.
Czech Republic

Violation of Article 17§1 of the 1961 Charter

To increase the protection of minors under 15 years and make their protection more effective, the amendment of Act No 200/1990 Coll., regulating contraventions, was adopted from October 1, 2016. The amendment imposes an obligation to commence proceeding in case of an administrative delict or offence in which the affected person is a child younger than 15 years without a notice of motion. This legislative change will enable more efficient sanctioning of contraventions against children (for example less serious bodily harm of a child). It includes corporal punishment, verbal abuse of a child, insult or humiliation. The law increases the penalties for these offenses. The imposed fine can reach up to CZK 20 000; in case of a repeated offence within a year to 30 000 CZK.

II.
Information required by the European Committee of Social Rights
[Conclusions XX-4(2015)]

Article 7 – Right of children and young persons to protection § 5 – Fair pay

Conclusion of the Committee

“The situation in the Czech Republic is not in conformity with 7§5 of the Charter on the ground that:

- *The minimum wage of young workers is not fair*
- *It has not been established that the apprentices ‘allowances are adequate.’”*

Statement of the Czech Republic

1. Young workers remuneration

The relevant section of the Government Regulation No 567/2006 Coll. which stipulated that an employee under 18 years is entitled to at least 80 % of the statutory minimum wage as well as the lowest level of guaranteed wage was abolished by Government Regulation No 246/2012, effective from January 1, 2013.

With respect to the current legislation, there are no differences in remuneration and no reduction on the ground of age of workers. Young workers are paid equally as the adults. This is guaranteed in Section 110, Subsection 1 of the Czech Labour Code.

| Development of the minimum wage since it was introduced in 1991 | |
|--|------------------------------------|
| Period | Minimum monthly wage in CZK |

| | |
|---------------|--------|
| 1991 February | 2,000 |
| 1992 January | 2,200 |
| 1996 January | 2,500 |
| 1998 January | 2,650 |
| 1999 January | 3,250 |
| 1999 July | 3,600 |
| 2000 January | 4,000 |
| 2000 July | 4,500 |
| 2001 January | 5,000 |
| 2002 January | 5,700 |
| 2003 January | 6,200 |
| 2004 January | 6,700 |
| 2005 January | 7,185 |
| 2006 January | 7,570 |
| 2006 July | 7,955 |
| 2007 January | 8,000 |
| 2013 August | 8,500 |
| 2015 January | 9,200 |
| 2016 January | 9,900 |
| 2017 January | 11,000 |

As regards the interpretation of the ECSR, projecting obligations under Article 4§1 into those under Article 7§5 (“*Since the Czech Republic has not accepted Article 4§1 of the 1961 Charter, the Committee makes its own assessment...the Committee considers that the right to a fair pay of young workers is not guaranteed since the reference wage is too low to secure a decent standard of living.*”), is important to point out that the Czech Republic did not ratify Article 4§1 of the 1961 Charter containing the right of workers to a fair remuneration and decent standard of living. On this ground the Czech Republic cannot be found in non-conformity with this provision which is not legally binding for the country. Otherwise Article 20§1 and 3 of the 1961 Charter stipulating that “...

Article 20

Undertakings

1. Each of the Contracting Party undertakes

b) to consider itself bound by at least five of the1, 5, 6, 12, 13, 16 and 19;

c) in addition to the articles selected....., to consider itself bound by such a number of articles or numbered paragraphs....as it may select....”

3. Any Contracting Party may, at a later date, declare by notification to the Secretary General that it considers itself bound by any articles or any numbered paragraphs of Part II of the Charter which it has not already accepted under the terms of paragraph 1 of this article. Such undertakings subsequently given shall be deemed to be an integral part of the ratification or approval, and shall have the same effect as from the thirtieth day after the date of the notification.

would be meaningless when non-accepted Articles are evaluated and will disregard the role of the Parliament of the Czech Republic to express its consent with the international obligations and the whole process of ratification when a country cannot select itself by which Articles or numbered paragraphs wishes to be bind.

2. Apprentices

Government Regulation No 561/2004 Coll. stipulates a level of allowances for apprentices connected with their vocational training during apprenticeship and covers all sectors of national industry and all parts of the national territory.

The minimum allowance guarantees minimum 30 % of the minimum wage of adult worker (CZK 9,900; from January 1, 2017 the minimum wage will be increased to CZK 11,000); maximum allowance is without any limit, i.e. can be higher than minimum wage of the adult worker. The level of the allowance depends on the apprentice's work productivity. There are not deductions from the allowances.

There are no statistics at disposal of Ministry of Labour and Social Affairs concerning allowance level, as the schools are founded by Regional Authorities, the executive section of regional self-government, not by particular employers. In this respect, the risk that employers will use apprentices as underpaid workers or apprenticeship will be prolonged unduly, does not exist.

Article 8§2 Right of employed women to protection

Paragraph 2 – Illegality of dismissal during maternity leave

Statement of the Czech Republic

Redress in case of unlawful dismissal

- An employee who does not ask for reinstatement (for example because he/she has already concluded another labour law contract) is entitled to compensation in the amount of average earnings for the period of regular notice of dismissal – Sec. 69§3 of the Labour Code (Sec. 51§1 of the Labour Code stipulates two month as the minimum period of notice of termination). The compensation under Sec. 69§3 of the Labour Code covers only damage connected with unlawful dismissal.
- Concerning possible discrimination, pecuniary and non-pecuniary damage – depends on what a petitioner requests, what he/she seeks at the petition and what he/she claims at court. The same court can award both compensations in decision on merits.
- The same regime applies to men and women in the public and private sector and for all forms of labour law relationships.
- The average length of the judicial proceeding from the date of incidence until the day of full legal force of the decision:

| | 2013 | 2013 |
|------------------------|-------------|-------------|
| District Courts | 426 | 380 |

| | | |
|------------------------|-----|-----|
| Regional Courts | 511 | 545 |
|------------------------|-----|-----|

Source: Ministry of Justice of the Czech Republic

| | 2014 | 2015 | 2016 Jan – Sept. |
|--------------|-------------|-------------|-------------------------|
| Total | 602 | 602 | 597 |

Source: Ministry of Justice of the Czech Republic