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PROVISIONAL VERSION

Decent work for all

Report¹
Committee on Social Affairs, Health and Sustainable Development
Rapporteur: Mr Roel DESEYN, Belgium, Group of the European People's Party

Summary

Access to employment in conditions of freedom, equity, security and dignity is paramount for individual and collective well-being. Although international and European law obliges States to protect the right to work and rights at work, making decent work a reality for all remains an uphill battle. Global and intra-European asymmetries have eroded labour rights, job security and quality employment prospects for millions of people, notably for young people and migrants, as well as the “working poor”.

The report highlights the need for more cooperation and solidarity of the international community to promote a decent work agenda under the new sustainable development framework beyond 2015 and multilateral or bilateral trade agreements. European States are called upon to improve the consistency of national measures towards fulfilling their international commitments and harmonising European social standards. Special efforts are needed to ensure occupational safety and to effectively enforce a ban on child labour under the age of 15, in line with the European Social Charter and through more regular labour inspections.

Governments' partnership with the private sector and civil society should help modernise a social contract in society and enhance corporate social responsibility, notably concerning activities in countries where the risk of social dumping and exploitation is high.

¹ Reference to Committee: Doc.12269, Doc.12740, Reference No. 3818 of 25 November 2011.

A. Draft resolution²

1. Work is an essential aspect of human life. It underpins individual and collective well-being by providing a source of subsistence, development, self-accomplishment and social inclusion. International and European human rights law lays down obligations for States to achieve the full realisation of the right to work and to protect rights at work. The International Labour Organisation (ILO) and the European Committee on Social Rights further insist on the need to respect a full range of labour-related rights which make work decent and accessible for all. Decent work hence refers to productive employment in conditions of freedom, equity, security and human dignity.

2. Across Europe, public anxiety keeps growing about the erosion of labour rights, job security and quality employment prospects, notably for young people and migrants. Protracted economic stagnation, market deregulation and austerity in the West have destroyed more jobs than new ones have been created, and in-work precariousness has sprawled. This contrasts with the dynamism in developing countries which are making quick gains in competitiveness and living standards, but lag behind on labour rights. Global and intra-European asymmetries underlie a 'race to the bottom' on salaries, social protection and employment conditions, thus escalating inequalities and leading to social dumping.

3. Building an inclusive and prosperous society through decent work requires global solutions. The Parliamentary Assembly reiterates the importance of international cooperation and broader solidarity between richer and poorer States, not least towards promoting decent work under the Millennium Development Goals (MDGs) and the new sustainable development framework beyond 2015. European countries must work together to root human rights and decent work strategies more explicitly in the multilateral trade system and bilateral trade and investment agreements.

4. Council of Europe member States must also strengthen the implementation of the European Social Charter (ESC). This instrument complements the European Convention on Human Rights on social and economic rights by linking labour-related norms with legal and social protection, just employment conditions and free movement of persons. The European Union (EU) Charter of Fundamental Rights already refers explicitly to the ESC. However, further steps are needed to improve the consistency of national measures for fulfilling international commitments and harmonising European social standards.

5. Only a healthy and safe working environment enables working people to realise their full potential. The Assembly considers that governments can make no concessions on occupational safety levels and must ensure that these are thoroughly respected by all employers. It moreover stresses the need for better enforcement of a ban on child work under the age of 15, as stipulated in the ESC. Regular labour inspections are crucial in this respect and need adequate resources at all times so as to play their role fully.

6. Solidarity action to improve social safety nets, re-skilling and the mobility of workers is no longer an exclusive responsibility of governments. Modernising a social contract in society requires stronger partnership with the private sector and civil society to uphold the decent work agenda. The Assembly calls for the strengthening of corporate social responsibility and ethics, in particular concerning the relationship of enterprises with sub-contractors and their sourcing policies in third countries where the risks of exploitation of workers are substantial.

7. With a view to preserving social peace and justice through 'more and better jobs', the Assembly recommends to national parliaments and governments of member States to:

7.1. consolidate national strategies for securing decent work conditions for their entire population and promote intra-European convergence in this area;

7.2. ensure that work-related rights, conditions and protection, as well as binding social and environmental clauses with accompanying control mechanisms, are systematically built into bilateral and multilateral free trade and investment agreements and into the new sustainable development framework replacing MDGs after 2015;

7.3. guarantee coherent implementation of global core labour norms and relevant ESC provisions, in particular those concerning freedom of association and collective bargaining, fair remuneration and social coverage, non-discrimination and employment services, protection of minors and healthy and safe work environment;

² Draft resolution adopted unanimously by the Committee on 14 March 2014.

- 7.4. adhere to the European Social Charter's collective complaints procedure if they have not yet done so;
- 7.5. use contacts with employers' associations with a view to enhancing corporate commitments to social dialogue, job creation, preservation and sharing, adequate remuneration of capital and labour, healthy workplace organisation and skills development;
- 7.6. ensure a regulatory level-playing field for small, medium and large enterprises, promote fair competition through national taxation instruments and reinforce measures against tax avoidance;
- 7.7. secure national minimum wage and social protection floors at a level that corresponds to domestic development needs;
- 7.8. facilitate the mission of labour inspectorates and dialogue between social partners to tackle irregular employment and abuses in working conditions (notably as regards minimum and maximum working hours, workplace safety and special protection for the vulnerable population groups);
- 7.9. use the funding and project opportunities through the Council of Europe Development Bank for targeted support to improving employment offers for young people, minorities and the disabled;
- 7.10. put in place new communication channels (including social media and networks) for reporting abuses of labour norms to public authorities;
- 7.11. provide for safeguards and tough sanctions against irregular employment and improve contractual social guarantees for posted, young, migrant and domestic workers.
- 7.12. eliminate the pay gap between women and men.

B. Explanatory memorandum by Mr Deseyn, rapporteur

1. Introduction: work as a basis for a life in dignity and an inclusive society

1. Work is an essential aspect of human life. It is central to most people's well-being by linking individuals into communities and providing them with means for subsistence, development and self-accomplishment. The importance of work in society has been recognised by enshrining the right to work in the Universal Declaration of Human Rights and more generally in the international human rights law, such as the International Covenant of Economic, Social and Cultural Rights.

2. Whilst the Universal Declaration asserts that "Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment", the Covenant emphasises the right to work from the angle of individual freedoms, socio-economic development and States' obligations "to achieve the full realization of this right". The International Labour Organisation (ILO) further insists on the need to respect a full range of labour-related rights which make work decent and accessible for all.

3. Across Europe, there is a growing anxiety about the erosion of labour rights, increased job insecurity and the lack of quality employment prospects, notably for young people. The vicious circle of economic stagnation, market deregulation and fiscal austerity, as well as the "dark side" of globalisation, bite hard into the competitiveness of national economies and the living standards of the population. If, on the one hand, globalisation has created new economic opportunities for all (thanks to freer international trade and more dynamic labour markets), it has, on the other hand, also triggered a 'race to the bottom' on salaries, social protection and employment conditions, resulting in unbearable increases in inequalities.

4. It is particularly worrying that Europe's trading partners in many developing countries perceive protection of human rights (including socio-economic rights) and the environment as protectionism rather than as a development path to follow. These divergences escalate asymmetries and tensions between countries, distort a global level playing field and lead to *de facto* social, and in some cases also environmental, dumping.³

³ On 3 June 2013, the Committee on Social Affairs, Health and Sustainable Development decided to merge two of its reports under preparation ("Decent work for all: combating social dumping" and "Exploitation of the workforce of poor countries") into one report with the working title "Decent work for all: combating social dumping/ Exploitation of the workforce of poor countries". It also takes into account a motion for a resolution on "Human rights as the ethical reference in a global economy" which had been referred to it for information by the Assembly's Bureau.

5. Bearing in mind the Council of Europe's core values relating to the promotion of human rights, democracy and the rule of law, as well as societal challenges stemming from globalisation - I intend to explore avenues for action by European countries towards redressing global imbalances and securing decent work for all. On the basis of relevant instruments and activities of this Organisation, the European Union and other international organisations (such as the ILO, the World Trade Organisation (WTO) and the International Trade Union Confederation), as well as independent research sources, I will highlight policy options for achieving a better balance between economic development and social solidarity.

2. The concept of decent work and the ILO's Decent Work Agenda

6. Decent work - as a concept and an agenda - was introduced by the ILO in 1999 and has since then been widely endorsed by the international community. As the ILO puts it, "decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organise and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men". In short, decent work refers to productive work in conditions of freedom, equity, security and human dignity.

7. Numerous studies show that for many people work, in particular decent work, is a route for escaping poverty and ensuring sustainable livelihood. Better jobs lead to better life for all: living in dignity for individuals translates into quality development for the communities they live in, thus building more cohesive, more inclusive and - more prosperous - societies. The ILO's Decent Work Agenda hence lays emphasis on four fundamental aspects:

- access to employment and fair remuneration;
- rights at work (notably respect for the core labour standards);⁴
- solidarity through social protection; and
- communication at work through social dialogue.

8. Whereas employment opportunities and job creation largely depend on the sound performance of national economies, access to jobs, remuneration policies, due respect for labour norms and adequate social protection rely considerably on the social contract between stakeholders (businesses, government and civil society). Despite governmental efforts so far, an estimated 1.1 billion people, including some 200 million of unemployed persons, worldwide live in poverty. In Europe, half of poor households rely on one wage earner in the family.

9. The ILO therefore pleads for making decent work a global goal and a national reality with a view to ensuring equity and social progress, as well as eradicating poverty. This clearly requires more international cooperation and broader solidarity between richer and poorer States, not least towards honouring commitments in the framework of Millennium Development Goals (MDGs). According to the ILO, there is an urgency of creating some 600 million jobs over the next decade so as to generate sustainable growth and maintain social cohesion.⁵ It is hence essential that decent work challenges be adequately taken into account in the new development framework on MDGs beyond 2015.

3. Decent work in relation to the European social standards, objectives and integration

10. European countries share a long history of commitment to social policies that concern more or less directly various aspects of decent work. The European social model born in the post-war years combines national commitments to economic development and full employment with adequate social protection for the whole population and social cohesion. Thus, already the 1957 Treaty of Rome contained provisions on working conditions, standard of living, equal pay for equal work, social security for migrants and increased mobility of workers, which paved the way for the adoption of the European Social Charter in 1961 and the revised Charter in 1996.⁶

⁴ These rights mainly relate to the organisation of work, a healthy and safe working environment, recognition at work, freedom of association, collective bargaining and protection from discrimination, elimination of forced labour and child labour. The ILO Declaration on Fundamental Rights and Principles at Work states that these rights are universal and that they apply to *all* people in *all* States (including population groups with special needs, such as the unemployed and migrant workers), whatever the level of economic development.

⁵ "Global Employment Trends 2012: preventing a deeper jobs crisis" by the ILO, Geneva.

⁶ The EU also has the Community Charter on the Fundamental Social Rights of Workers adopted in 1989 that was later accompanied by a series of specific directives. The Charter can be evoked by the European Court of Justice in litigation concerned with social and labour rights.

11. If the fundamental Council of Europe treaty - the European Convention on Human Rights (ECHR) focuses more on civil and political rights, some of its articles (notably Articles 3, 4, 5, 8, 9, 10, 11 and 14) outlaw certain practices that might occur in employment (inhuman or degrading treatment, forced labour, infringements concerning personal security, freedom of conscience, expression and association, privacy and discrimination).

12. The European Social Charter complements the ECHR on social and economic rights: it not only covers labour-related rights, but also links them with legal and social protection, employment conditions, vocational guidance, training and free movement of persons. However, unlike the ECHR, the Charter does not provide for consideration of complaints by individuals on alleged violations of the Charter by States that are bound by it. Under the Charter, the Additional Protocol provides for a system of collective complaints,⁷ but only 15 member States are bound by this procedure.

13. In the European Union, free movement of people (and workers) is one of the four pillars of the Single Market launched in 1993. It was then that the first fears were voiced about social dumping seen as a 'side effect' of the Single Market. Social dumping is understood as any practice – in breach of national or international social laws in force – aimed at gaining economic advantage, particularly in terms of competitiveness.⁸

14. Converging concerns about unemployment and competitiveness then prompted the launching of the European Social Agenda in 2000 (as part of the Lisbon Strategy), with emphasis on the need for a new balance between flexibility and security in a changing global context, as well as insisting on the modernisation of social protection systems and the fight against social exclusion.

15. That being said, wide social disparities have been and remain a reality in Europe, as full employment, better living and working conditions, social dialogue and equal treatment of men and women prove difficult to achieve in practice. If the 'Iron curtain' now belongs to Europe's history, socio-economic divides persist and push many Europeans to become migrant workers who more easily accept employment conditions that fall below what is qualified as decent work. Inexistent or insufficient co-operation between labour inspectorates of different European countries and weakened capacities because of the budget austerity reduce opportunities for spotting abuses of labour legislation, notably the exploitation of migrant workers.

16. Much resentment and controversy was stirred across Europe in recent years by the adoption of the EU services directive or the so-called "Bolkestein directive" (named after the Dutch commissioner who designed it) in 2006. Opponents of this instrument feared that it could lead to unfair competition between workers from various European countries with different levels of wages and social protection, whilst supporters argued that it would help improve the provision of services across the continent. Indeed, services represent about 20% of intra-EU trade, but about 70% of jobs.

17. Seven years later, results are viewed as mixed. Despite safeguards to protect employment conditions (in particular through collective agreements) and positive changes in national regulatory policies (such as the removal of protectionist or discriminatory clauses), there have also been negative trends of the downward levelling of salaries and social coverage, mainly for posted workers, - away from the ideal of "same work – same salary". This is more visible in the cross-border transportation services⁹ and the construction sector. Clearly, market liberalisation, which is important for European economic integration, is not sufficiently synchronised with progress in harmonising social provisions, in particular as regards worker-related rights and their protection. This is all the more pertinent in the light of ongoing globalisation and the economic crisis.

4. Defending European social standards in the context of globalisation and economic crisis

18. Globalisation - in full swing since mid-1990s - has overall stimulated economic growth and, at times, growth in employment. But not all jobs thus created have been of the sort which secures a decent standard of living for workers and their families or helps fighting poverty. Precarious and insecure jobs of today slow

⁷ The Additional Protocol (CETS No. 158) has so far been ratified by 13 States (2 more States have accepted the collective complaints procedure as parties to the revised Charter, CETS No. 163) and signed by 5 States.

⁸ Information report on social dumping in Europe, presented by Mr Gaëtan Gorce, Deputy, on behalf of the delegation of the French National Assembly to the European Union, 25 May 2000, No. 2423.

⁹ For instance, the Irish low-cost airline Ryanair was fined, in October 2013, and must pay nearly €9 million in damages after being found guilty, by a court in southern France, of breaching French labour law. The ruling referred to illegal practices of registering workers employed in France as Irish employees, preventing workplace councils from functioning and preventing access to unions. This judgement echoes a similar case of another low-cost carrier, EasyJet, which was ordered to pay, in 2010, more than €1.4 million for hiring 170 employees under British contracts at a Paris airport.

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down the creation of national wealth and cannot secure sufficient funding of social protection systems, thus worsening existing imbalances. The economic crisis has aggravated the situation further.

4.1. A “jobs crisis”: risks of crawling social dumping due to structural problems and informal economy

19. A global trend for low-cost labour and maximising the so-called shareholder value of businesses squeezes overall remuneration levels and puts social protection systems under strain as revenue diminishes but benefit payouts increase. This eventually may lead to social dumping. Such practices mainly concern salaries, social contributions, working hours, working conditions and costs linked to the application of social regulation. Some corporate managers deliberately choose to apply short-term profit-raising strategies that lead to layoffs and a decline in the product quality, which may ultimately undermine the long-term competitiveness and viability of European enterprises.

20. Moreover, although job losses since the onset of the global crisis have been significant, unemployment was already high before the crisis in many European economies. What used to be “ordinary unemployment” turned into a more harmful structural problem with the rates of long-term unemployed and youth unemployment soaring. This means that labour market challenges will persist even as the global economy recovers and that policy measures are particularly needed to tackle structural unemployment in addition to stimulating job creation in the short-term. At the same time, “international labour standards must be preserved and promoted if the world is to recover from the economic and employment crisis”, as the ILO Director-General Guy Ryder stated in October 2012 when taking up his office.

21. A significant problem across Europe is undeclared work which is part of the informal economy. As the Assembly highlights in the report on “The Underground economy: a threat to democracy, development and the rule of law” (Doc. 12700), “Not only does [...] undeclared labour cause serious frictions and security concerns in society in general, but it also distorts the functioning of national welfare systems and erodes corporate compliance with core labour standards”.

22. The report notes that Roma communities and other vulnerable groups (such as minorities and migrants) face a particularly high risk of “sliding into the underground economy where they become locked in by seeking minimum subsistence”. This is particularly true in the times of economic crisis as job losses in the formal economy actually give a boost to job creation in the informal sector. According to the ILO, the share of informal employment remains high at more than 40% in two-thirds of emerging and developing countries.¹⁰ In the developed countries, the informal economy accounts for about 18.4% of GDP (in 2013) in the EU and some 8.6% in Australia, Canada, Japan, New Zealand and the United States.¹¹

23. Moreover, at least 21 million people worldwide are victims of forced labour and exploitation in the sex industry, agriculture, construction, domestic work, fisheries and manufacturing. This includes 9 million persons who were trafficked inside countries or across borders. A quarter of all victims (5.5 million) are children under the age of 18. In Europe, forced labour concerns an estimated 1.5 per 1000 inhabitants in the EU and 4 per 1000 in central, eastern and south-eastern countries.¹²

4.2. The resurgence of child labour in Europe

24. With a continuing rise in poverty and precariousness of families, there is now more and more evidence about the return of child labour in Europe. Undeclared and often underpaid work by children is spreading in the poorest or otherwise disadvantaged urban and rural areas of southern Europe and among migrants. This phenomenon is not only in breach of the ILO’s core labour standards and the European Social Charter (which bans child work under the age of 15), but is also depriving the children concerned of schooling and development opportunities, as well as subjecting children to abuse, health hazards and exploitation in criminal networks.

25. According to a local government report of 2011 on the child labour situation in Naples and the surrounding Campania region, more than 54,000 children left the education system between 2005 and 2009; 38% of them were under 13 years old. The Italian Confederation of workers (CGIL) estimates that about

¹⁰ “World of Work Report 2012: Better jobs for a better economy”, ILO.

¹¹ Transitioning from the informal to the formal economy, ILO, first edition 2013.

¹² See “Strengthening action to end forced labour”, ILO, first edition 2013, and the PACE Resolution 1922 (2013) on trafficking of migrant workers for forced labour.

300,000 children aged 8 to 16 are illegally employed throughout Italy,¹³ mainly in southern regions. Another study of June 2013 confirms that no less than 5.2% or 260,000 children younger than 16 are working.¹⁴

26. Other countries in Europe, including Cyprus, Portugal, Greece and Turkey, are concerned by the resurgence of child labour.¹⁵ In July 2012, the Council of Europe Commissioner for Human Rights warned that austerity measures in Portugal led to growing child poverty, rising school dropouts and a resurgence of child labour. In his statement of August 2013,¹⁶ the Commissioner referred to UNESCO data showing that 29% of children aged 7-14 in Georgia are at work whilst the figure for Albania is 19 % and close to 1 million as regards the Russian Federation. Overall, however, reliable data on child labour in European countries – a “taboo subject” – is missing, as both the Commissioner and the ILO admit.¹⁷

27. It is particularly alarming that many of the children at work in Europe are in hazardous occupations, be it in agriculture, construction, small factories, family businesses or on the street. The Commissioner thus points to the patterns of child labour in the tobacco industry in Bulgaria and in harvesting activities in the Republic of Moldova, as well as long working hours in the United Kingdom. Hazardous child work is also reported in countries such as Albania, Georgia, Montenegro, Romania, Serbia, Turkey and Ukraine.

4.3. Precarious employment

28. In addition to some 27 million unemployed in the EU alone (or about 11% of the workforce but with youth unemployment hitting 23% on average), Europe is facing a growing problem of underemployment and precarious employment due to low-paid and involuntary part-time jobs and short-term contracts.¹⁸ This market rush for cheap labour leads to a dramatic increase in poverty not only among the unemployed and underemployed but also among full-time employed yet low-cost workers (“the working poor”). Moreover, as the President of the European Committee of Social Rights (ECSR) highlighted at the Council of Europe Conference on the Eradication of Poverty on 17 October 2012, shrinking income from work and social benefits - due to the economic crisis and austerity programmes - penalises entire families through eroding access to basic public services, child poverty and the loss of housing.

29. The latter trend is accentuated by the delocalisation of enterprises to countries with lower labour costs and lower standards of social protection - including among the Council of Europe member States which have widely differing average remuneration levels and social regulations. Thus employment gains for one country nearly automatically mean job and revenue losses in countries affected by delocalisation. Moreover, the possibility of delocalisation is sometimes used by employers to compress salary levels and employment conditions of existing employees which leads to *de facto* social dumping.

30. Similarly, social dumping also occurs when foreign workers arrive from a country with lower social protection and wages than those in the host country. These workers in search of employment abroad will more readily accept unfavourable working conditions in the host country than the local workers, which in turn create a negative pressure on average or minimum wages and terms of contract. Moreover, in most cases, such conditions are illegal, because they violate collective agreements that cover all employers and employees of a sector.

31. At the same time, European countries need to address huge external pressures due to the global open trade system that encourages the mobility of workers, enterprises and capital, as well as competition based on the lowest common denominator in terms of labour provisions. It is in the interest of both European countries and their international trade partners among developing countries to seek that decent work would be systematically integrated into bilateral and multilateral trade agreements. As stated in the final document of the 2012 Parliamentary Conference on the WTO, “the trade-employment nexus needs to be critically accounted for within the entire multilateral trading system, aiming at full implementation of the ILO core labour standards and facilitation of labour mobility”.

¹³ Minimum age requirement for working in Italy is 15 years.

¹⁴ See the study “Game over” by the NGO Save the Children Italy, June 2013.

¹⁵ The ILO estimates, in its report of 23 September 2013, that worldwide there are 168 million child workers - including some 120 million aged 5-14 years in child labour (under constraint) and 85 million (aged 5-17 years) who are trapped in hazardous work. See also the ILO study on “Children in hazardous work: what we know, what we need to do”, published in Geneva in 2011.

¹⁶ See the Human Rights Comment on “Child labour in Europe: a persisting challenge”, 20 August 2013.

¹⁷ “Marking progress against child labour” – Global estimates and trends 2000-2012, 23 September 2013, ILO International Programme on the Elimination of Child Labour.

¹⁸ Eurostat data for the EU-28 of July 2013; the youth unemployment rate concerns the unemployed of 15 to 24 years as a percentage of the labour force of the same age.

4.4. Fair competition: “more and better jobs” versus protectionism

32. Persistent economic liberalisation - as part and parcel of globalisation - has increased the interdependence of States and has made States more dependent on international markets for finance and trade. Whereas the role of the State in national economy has generally diminished, the power of enterprises, in particular multinational ones, has grown significantly. Although States remain key regulators domestically and main negotiators of international agreements, large enterprises and some financial institutions wield substantial influence in parallel on the terms of international competition and economic integration.

33. This process has resulted in very uneven gains and losses in terms of jobs, income and employment conditions, with overall inequalities rising - both within and between States - to the disadvantage of low-skilled, unqualified, less protected or less flexible workers. According to the OECD, these disparities are mainly due to the developments in labour markets, in particular as regards earnings, against the backdrop of economic globalisation, skill-biased technological changes, institutional and regulatory reforms (e.g. minimum wages went down) and changes in employment patterns, household structures (with more single parent families), tax and benefit systems.

34. Research also shows an erosion of well-being at work and a growing incidence of work-related burnouts, diseases, accidents and even suicides due to intensifying professional pressures. French researchers have identified a direct link between job insecurity and suicides, while American psychologists started to refer to “econocides” to depict a wave of suicides related to the current economic crisis and job losses.¹⁹ Indeed, because of higher levels of anxiety, depression and the feeling of hopelessness, as well as lower self-esteem, the unemployed are two to three times more likely to die by suicide than those who have jobs. Moreover, emotional distress at work, workplace bullying, harassment and productivity pressures also lead to more suicides, injuries, depression and deteriorating health in general.²⁰

35. Workplace malaise and accidents seem to be more common where workloads soar, companies undergo restructuring or corporate policies neglect working conditions. Examples of work-related human disasters abound both in Europe and among its trading partners, in particularly in developing countries. For instance, since 2008, over 60 employees of Orange, a French telecom company, committed suicide; at least 1133 people perished and over 2500 were injured (many disabled permanently) in the collapse of a decrepit garment factory in Dhaka (Bangladesh) in April 2013 and hundreds of workers die each year in Chinese factories due to poor working conditions.²¹ Social unrest is also increasing in most countries relative to the pre-crisis period: its risk is the highest among the EU countries (up from 34% in 2006-2007 to 46% in 2011-2012 out of 71 economies for which relevant data is available).²²

36. This means that the benefits of open markets and free trade are not automatic and are not shared evenly across society. As the OECD, the ILO, the World Bank and the WTO joint study points out, “if support for open markets is to be sustained, [...] costs [associated with the reallocation of labour and capital] need to be recognised and policies put in place to assist workers and communities to adjust to a more competitive environment”.²³

37. More international competition and greater dynamism of global competitors represent critical challenges for many European countries: all actors of the value chain - enterprises, professional associations, policy-makers and workers - have to adapt to rapidly changing labour market requirements whilst trying to consolidate social achievements and progress. Global ‘rules of the game’ that European countries have accepted by joining the WTO provide little tolerance for protectionism, or discrimination, of any sort. Yet the existing WTO rules together with the binding dispute settlement mechanism do not adequately take into account fundamental human rights and values, including labour and social protection rights.

¹⁹ See articles “Confronting the stigma of suicide at work”, the Guardian, 9 October 2009, and “Econocide’ to surge as recession bites”, BBC news, 11 March 2009; and <http://www.hazards.org/suicide/>.

²⁰ See “Analysis of the determinants of workplace occupational safety and health practice in a selection of EU Member States”, 2013, report available at <https://osha.europa.eu/en/publications/reports/analysis-determinants-workplace-OSH-in-EU/view> and “Impact of the crisis on working conditions in Europe”, 2013, report available at <http://www.eurofound.europa.eu/ewco/studies/tn1212025s/index.htm>.

²¹ Foxconn is an emblematic case. Its factories produce electronic components for famous western brands such as Apple, Nokia, Motorola and Dell. The media reported numerous suicides, injuries, intoxications due to chemicals and heavy metals, exhaustion because of long working hours (over 60 hours a week) and physical maltreatment at the workplace.

²² See “World of work report 2013: Repairing the economic and social fabric”, ILO, the International Institute for Labour Studies, 2013.

²³ “Seizing the benefits of trade for employment and growth”, final report by the OECD, the ILO, the World Bank and the WTO to the G20 Summit meeting in Seoul (South Korea) on 11-12 November 2010.

38. Europe which is a global reference for the defence of human rights should work towards rooting human rights principles more explicitly in the multilateral trade system. In short, European countries ought to export not only goods and services but also the values they cherish. The EU in particular can use bilateral trade agreements to promote fair trade and press its trading partners to respect work-related rights.²⁴ In the case of the free trade agreement between the EU and Colombia and Peru (in force since August 2013), some clauses refer specifically to human rights and labour standards. For example, article 269 of the agreement states that both parties shall “promote the development of international trade in a way that contributes to productive employment and decent work for all”.²⁵

39. Developing countries, too, have a duty to contribute to a “fair globalisation based on decent work”, as the ILO Declaration on Social Justice for a Fair Globalisation of 10 June 2008 points out. With this Declaration the ILO members agreed that the breach of fundamental principles and rights at work cannot be used as a comparative advantage and that labour standards should not be used for protectionist purposes. A ‘win-win’ situation for the developing and developed countries can be achieved if all States would accept to adequately enforce core labour standards and thus seek quality economic and social development. European channels for the allocation of public procurement contracts and development aid could be better used for fostering solidarity and labour rights.

40. Moreover, Europeans should seek to compete more on the basis of higher quality, added value, efficient regulation, better workplace organisation and enhanced innovation rather than on labour costs basis, so as to take more advantage of the race to the top and not to the bottom. Only fair, not abusive competition can be a vector of social progress for Europe and its commercial partners. As the PACE debate on human rights and business in October 2010 has shown, Europe needs to look more closely both at the rights of enterprises and their responsibilities towards the society, not least in relation to third countries.²⁶ In the light of growing public consensus in this regard, corporate social responsibilities must be clarified and strengthened - with adequate guidance from State and European authorities. In this respect, the OECD Guidelines for multinational enterprises offer a good framework which resumes the expectations of international community with regard to multinationals in a rather detailed manner.

4.5. *Implementing European social standards to anchor decent work and combat social dumping*

41. The European social standards are clearly stated in the European Social Charter which is the most authoritative legal reference setting benchmarks for upholding the European social model, notably as regards labour regulations and social protection. The Charter currently binds 43 Council of Europe member States who ratified it (except for Liechtenstein, Monaco, San Marino and Switzerland). The EU Charter of Fundamental Rights makes explicit reference to the European Social Charter. However, EU’s accession to the European Social Charter would considerably improve the consistency of national measures for implementing international commitments²⁷ and avoid that clashing signals are sent to member States on the alignment of national legislation with the European social standards and case law.²⁸

42. In 2012, the European Committee of Social Rights drew the attention of our Assembly to the selection of cases of non-conformity with the provisions of the Charter, including as regards labour-related norms. As the PACE rapporteur on decent work, I wish to highlight the list of pertinent conclusions, which appear in the appendix, and urge parliaments of the countries concerned to adjust national legislation. In this context, I also welcome the holding of the parliamentary cooperation seminar on 18 October 2013 by the Sub-

²⁴ The EU has an obligation, in the development and implementation of its external action, to respect human rights and foster the sustainable economic, social and environmental development of developing countries, with the primary aim of eradicating poverty (Art. 21(2) and (3) in the Treaty on EU and Art. 207 in the Treaty on the Functioning of the EU).

²⁵ Columbia has to face a particularly heavy legacy of attacks on trade unionists by paramilitary groups: in the last decades, over 2000 trade union activists were killed.

²⁶ See report by Mr Holger Haibach (Doc. 12361) and opinion by Mr Tuur Elzinga (Doc. 12384).

²⁷ European Parliament resolution of 19 May 2010 on the institutional aspects of the accession of the European Union to the European Convention for the Protection of Human Rights and Fundamental Freedoms (2009/2241(INI)) “Notes that accession by the Union to the ECHR signifies the recognition by the EU of the entire system of protection of human rights, as developed and codified in numerous documents and bodies of the Council of Europe; in this sense, accession by the Union to the ECHR constitutes an essential first step which should subsequently be complemented by accession by the Union to, inter alia, the European Social Charter, signed in Turin on 18 October 1961 and revised in Strasbourg on 3 May 1996, which would be consistent with the progress already enshrined in the Charter of Fundamental Rights and in the social legislation of the Union” (paragraph 30 of P7_TA(2010)0184).

²⁸ This is illustrated by the Council of Europe’s European Social Rights Committee judgement, issued on 20 November 2013, which estimated that Sweden, by adjusting its legislation in line with the Laval ruling of the European Court of Justice, violated the European Social Charter’s provisions on freedom of association, the right to collective bargaining and the right to take collective action.

Committee on the European Social Charter to alert members of national parliamentary committees dealing with social rights as regards specific needs of “Improving employment conditions of young workers (under the age of 18)” in line with the Charter’s article 7 (the right of children and young persons to protection), which was most productive. For 2012 and 2013, the ECSR found non-conformities with the Charter’s provisions on ‘employment, training and equal opportunities’ and on ‘safe and healthy working conditions’ in virtually all countries.²⁹

43 In addition, we should note some of the most recent decisions by the ECSR. The Committee thus ruled that the right to strike is restricted in several sectors of the Bulgarian and Swedish economy in a manner that is not in conformity with the Charter and that the new apprenticeship contract (containing abusive clauses on the termination of contract without due notice and indemnity) and differential regulations on minimum salary for young workers, introduced in 2010 as part of austerity programme in Greece, are not in conformity with the Charter’s provisions. Although ECSR decisions not binding upon parties having accepted the collective complaints procedure, they nevertheless constitute a legal obligation for the States concerned to adjust their national legislative framework accordingly.

44. Among the Council of Europe member States, many countries have provisions for minimum wages,³⁰ incentives for increasing labour force participation and the duration of professional life, as well as flexible arrangements on working time, legal guarantees on ‘equal pay for equal work’ and employer obligations on training or retraining of workers. Some countries have also put in place mechanisms of targeted support by “topping up” low salaries paid in the private sector or providing tax breaks on employers’ social contributions and job creation for the most disadvantaged (in terms of employment) population groups such as young people and the disabled. It is essential that such targeted support be clearly linked to employer obligations to deliver, maintain and enhance employment opportunities and conditions over long-term so that social objectives be achieved fully rather than simply fuelling the profits of private companies that fail to pay decent salaries.

45. Important policy pointers from the ILO appear in the Recommendation no. 202 of 14 June 2012, concerning national social protection floors which set basic national social security guarantees derived from human rights treaties and designed according to a country’s level of development.³¹ This new international standard links social and labour policies more closely and aims to expand essential health care and basic income security (via cash transfers, public services or housing assistance) with a view to preventing or attenuating poverty, vulnerability and social exclusion. It explicitly targets people employed in the informal, as well as the formal economy, who should all benefit from social security. At the same time, support is given to the growth of formal employment and the reduction of informality. The EU’s social protection committee included the social protection floors in its work programme for intra-European and external action.

4.6. Impact of deregulation on labour and social protection: is flexicurity an answer?

46. Given long-standing tensions between labour markets’ demand for greater flexibility and the aspiration of the population for social security and protection, flexicurity appeared as a providential solution in Europe offering ‘the best of both worlds’. Initially a feature of Danish and Dutch reform programmes in the 1990s, flexicurity has been embraced by the EU in 2007 as a labour market strategy.

47. The flexibility aspect, however, had gained ground over the security aspect much earlier in a number of EU countries (notably Germany, the United Kingdom and Spain) and across central and eastern European countries (as part of their transition to the market economy). A change of circumstances with the economic crisis has rapidly eroded social protection programmes, thus leading to an even greater imbalance between flexibility and security. In the case of zero-hour-contracts in the UK, flexibility is pushed to the extreme. Here, employees are “on call”, which means there is no guaranteed level of regular earnings, working hours and

²⁹ See http://www.coe.int/T/DGHL/Monitoring/SocialCharter/Conclusions/ConclusionsIndex_en.asp.

³⁰ Only 10 countries (Austria, Cyprus, Denmark, Finland, Germany, Italy, Liechtenstein, Norway, Sweden and Switzerland) in Europe do not have minimum wages. Germany sets, to a certain extent, minimum wages through collective bargaining agreements and is planning to introduce a country-wide minimum wage by 2017. Minimum monthly wages in Europe vary significantly: from about €42 in Georgia, €58 in the Republic of Moldova, € 87 Armenia, €112 in Ukraine and €132 in Russia to €173 in Bulgaria (the lowest in the EU), € 566-684 in Portugal and Greece, €1594 in Monaco and €1921 in Luxembourg (the highest in the EU). Sources: the Federation of European Employers, Eurostat (data for 2011-2012).

³¹ According to the ILO’s “World of Work Report 2013: Repairing the economic and social fabric”, roughly half of 151 countries surveyed do not have a consistent system of minimum wages and those that do often lack vigour to ensure compliance.

social coverage.³² If flexicurity is to remain a valid strategy, there is an urgent need to redress that balance in many European countries grappling with unemployment, poverty and austerity budgets.

48. In this context, the Swedish experience³³ with deregulation, budget discipline and a vast overhaul of the welfare state offers some interesting insights for other European countries. From a stagnant benefit-based country in the 1990s, Sweden transformed itself into a vibrant economy with still low inequalities, even if these have increased rapidly in recent years. A key to this success has been a strong social dialogue between trade unions and employers for negotiating differentiated minimum wages in various sectors and an optimised redistribution by the State whereby lower taxes on labour (especially low-skilled labour) and modest benefits encourage all people to work. A trap of low-wage in low-skilled jobs is mitigated by strong and highly efficient public services that support child-care, education, training and job-search amongst other. Finally, the national pension system's benefits have been indexed to the country's economic growth and hence budget's revenue side.

4. The need for better recognition of social capital and an integrated approach to decent work and development

49. Work is an increasingly central part of our daily lives. Even the boundaries between work and private life get blurred as modern technologies have enabled real-time connectivity with a workplace and facilitated teleworking. Work-related decisions by both employers and employees thus have major repercussions on society at large. Working people can no longer be perceived only as 'expenditure items' in bookkeeping. Their work creates value for society as a whole and their role deserves to be recognised fully as social capital which is just as crucial for development as physical capital.

50. The world of work and society as a whole have to better value people for their potential: modernising a social contract by embracing an integrated approach to decent work and development is a must if we want to preserve social peace and cohesion. Structural changes our society is going through might seriously damage the social fabric, but they can also trigger decent-work-based strategies using interdependencies between countries to press for more balanced development.

51. Social media and networking have transformed the way people get informed, communicate and work. These tools can also help build pressure on governments to mainstream decent-work strategies through policies and on employers to respect fundamental rights at work. In an information age, it takes seconds for the news on abuses of labour rights to reach every household and for civic revolt to snowball into sanctions against the public image of abusers. This power of the grass-root level should not be underestimated – first and foremost – by the working people themselves. International institutions too can use digital channels more actively to organise public campaigns for decent work to sustain or to stimulate governmental action.

52. Corporate actors are understandably sceptical and wary of any interference with 'business as usual' and workers' demands. But it takes two to tango: every working person is also a potential client that no business logic can afford to neglect. Happy, committed and loyal employees create more value for a company because of increased efficiency, creativeness that is rewarded and less absenteeism or work-related accidents. Obviously, in most cases what is good for employees is also good for the company. Small enterprises, which constitute the vast majority of employers across the globe, should receive clear policy signals from governments in favour of job creation, stronger corporate ethics and investment in people.

5. Concluding remarks on strategies for the future

53. Decent work is not a utopia of policy makers. If we want to build an inclusive and prosperous society, everyone must have a fair chance to participate and contribute through work that is respectful of fundamental rights. The first task of politicians is therefore to stimulate employment, job creation and job preservation through active, if not proactive, structural policies. These concern not only macroeconomic tools, but also educational systems, public services and social protection models. Both theory and practice confirm that minimum salary provisions and social protection floors are essential for balancing public and private sector efforts to provide just remuneration for work in line with the standard of living in a country.

54. The key aspect of the decent work agenda is about the protection of rights at work. This is the most complex, multifaceted and challenging task. Governments have no choice but to take the realities of

³² The demand for zero-hour-contracts is rising. Official estimates show that a total of 250 000 employees are on such contracts in the UK. However, the Chartered Institute of Personnel and Development (CIPD) indicates that there could be about one million zero-hours workers in the country. It is estimated that 37% of those employed on zero-hour-contracts belong to the age group of 16 to 24 years.

³³ See the article on "Sweden - the new model" in the special report of The Economist of 13 October 2012.

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globalisation into account so as to help employers adjust to competitive pressures and ensure a level playing field for small, medium and large enterprises alike. National taxation instruments have to promote fair competition. Tax avoidance by large enterprises and increasingly unequal remuneration of capital and labour are the biggest enemies of social justice and equitable sharing of benefits from global trade.

55. Only a healthy and safe working environment enables working people to realise their full potential. In this area, governments should make no concessions on occupational safety standards and must ensure that these are thoroughly implemented. Effective and regular labour inspections are therefore crucial and must be supported at all times. They have a special role to play in detecting forced labour, irregular employment and abuses of working conditions (notably as regards working hours, workplace safety and special protection for vulnerable persons, such as disabled people, minors and migrants). Given growing levels of stress at work, employers should be encouraged to review workplace organisation with a view achieving a more rational sharing of workloads, skills and tasks.

56. Child labour is still an issue in the world, where one in ten children are affected, and also in Europe, where data is patchy but nonetheless alarming. Bearing in mind a ban on child work under the age of 15 – as stipulated in the European Social Charter, it is essential that the Council of Europe member States carry out an in-depth analysis of the situation. Spotting patterns of child labour in hazardous occupations is a major priority for tackling root problems in domestic labour regulations and practice, but also child poverty.

57. In most countries, young people are confronted with special difficulties in finding jobs with satisfactory employment conditions. Increasing flexibility of contractual policies, coupled with adequate unemployment benefits, is justified by flexicurity strategies, but it should not be allowed to perpetuate precarious terms of employment and discriminatory practices. Additional safeguards in labour legislation are necessary to guarantee a minimum level of in-work security and social protection for young workers.

58. Solidarity mechanisms for improving social safety nets, re-skilling and the mobility of workers are not an exclusive domain of governments. Redefining a social contract in modern society requires stronger commitment of the private sector, alongside public authorities and civil society, to uphold the decent work agenda. This implies that obligations of enterprises should be strengthened as regards corporate social responsibility and ethics, in particular concerning the relationship with sub-contractors and sourcing policies in third countries where the risks of exploitation of workers are substantial.

Appendix

Selection of conclusions of non-conformity (2011) with the (revised) European Social Charter (by the European Committee of Social Rights)

Regarding the 1996 revised European Social Charter:

Albania

Art. 7§1: Definition of light work authorised by legislation is not sufficiently precise as there is no definition of the types of work which may be considered light or a list of those which are not.

Art. 8§2: Reinstatement is not the rule in case of unlawful dismissal based on pregnancy.

Armenia

Art. 7§3: The daily and weekly working time for children subject to compulsory education is excessive. (Allowing children to work before school in the morning is, in principle, contrary to Article 7§3. Allowing children aged 15 years still subject to compulsory education to deliver newspapers from 6 a.m. for up to 2 hours per day, 5 days per week before school is not in conformity with the Charter. Article 140 of the Labour Code establishes a shorter working time for young workers at the age of 14 to 16, up to 24 hours per week. The duration of the daily uninterrupted rest for employees at the age of 14 to 16 may not be less than 14 hours, which means that they can work up to 10 hours per day. Reference is made to a minimum framework specified in the Council Directive 94/33/EC of 22.06.1994 on protection of young people at work which establishes that working time of children must be limited to 2 hours on a school day and 12 hours a week for work performed in term-time outside the hours fixed for school attendance, provided that this is not prohibited by national legislation and/or practice and that in no circumstances may the daily working time exceed 7 hours. Therefore, the daily and weekly working time for children subject to compulsory education is excessive and thus not in conformity with Article 7§3 of the Charter).

Art. 7§7: Young workers have the option of giving-up the annual holiday for financial compensation.

Art. 27§3: Legislation makes no provision for the reinstatement of workers unlawfully dismissed on account of their family responsibilities.

Azerbaijan

Art. 8§1: Unemployment periods are not included in the calculation of the qualifying period for maternity benefits.

Bosnia and Herzegovina

Art. 7§4: The limit of 40 hours per week for young workers under the age of 16 is excessive.
(Under Article 7§4, domestic law must limit the working hours of persons under 18 years of age who are not subject to compulsory schooling. The limitation may be the result of legislation, regulations, contracts or practice. For persons under 16 years of age, a limit of 8 hours a day or 40 hours a week is contrary to the article. However, for persons over 16 years of age, the same limits are in conformity to the article. Section 29 of the Labour Law in the Federation of Bosnia and Herzegovina, Section 40§1 of the Labour Law in the Republika Srpska, and Section 22 of the Labour Law in Brčko District prescribe that the working week lasts for 40 hours. This provision is in force for all employees and according to the legislation in place, there are no exceptions of shorter working hours for young persons).

Art. 7§6: Legislative framework does not provide for time spent at the training with the consent of employer, to be accounted as a part of the working day.

Bulgaria

Art. 8§2: The exception to the prohibition of dismissal of pregnant women, in case of relocation of the undertaking where she works if she does not follow the company, is not in conformity with the Charter.

Art. 8§5: Women having recently given birth, who are not breastfeeding, do not benefit from the possibility of adjustments of their working conditions or temporary reassignment to an adequate post.

Cyprus

Art. 19§6: The requirement for foreign workers wishing to be joined by their close relatives to have been residing lawfully in Cyprus for at least two years is excessive.
(States may require a certain length of residence of migrant workers before their family can join them. A period of a year is acceptable under the Charter).

Estonia

Art. 19§6: A two years residence requirement which is imposed on migrant workers who are not citizens of member States of the European Union, nor citizens of the European Economic Area is excessive.
(States may require a certain length of residence of migrant workers before their family can join them. A period of a year is acceptable under the Charter).

Finland

Art. 8§2: No provision is made in law for the reinstatement of women unlawfully dismissed during pregnancy or maternity leave.

Art. 27§3: Legislation makes no provision for the reinstatement of workers unlawfully dismissed on grounds of their family responsibilities.

France

Art. 7§2: Legislation does not lay down an absolute prohibition for persons under the age of 18 to work on dangerous activities outside the vocational training context or without having had such training beforehand.

Art. 8§3: Women working in the civil service are not entitled to breastfeeding breaks.

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Art. 19§6: The condition that foreign nationals who wish to be reunited with their family must have been lawfully resident in France for eighteen months is excessive.
(States may require a certain length of residence of migrant workers before their family can join them. A period of a year is acceptable under the Charter).

Ireland

Art. 27§1: Periods of parental leave are not taken into account in the calculation of pension.

Italy

Art. 7§4: Working time of 40 hours a week for persons aged 15 (permitted by Legislative Decree No. 345 of 4.8.1999) is excessive.

(Under Article 7§4, domestic law must limit the working hours of persons under 18 years of age who are not subject to compulsory schooling. The limitation may be the result of legislation, regulations, contracts or practice. For persons under 16 years of age, a limit of 8 hours a day or 40 hours a week is contrary to the article. However, for persons over 16 years of age, the same limits are in conformity to the article).

Art. 8§3: Domestic workers and home workers are not entitled to paid breaks for the purposes of breastfeeding their infants.

Netherlands

Art. 19§8: Family members of a migrant worker who have come to the Netherlands for the purposes of family reunion must leave the Netherlands where the migrant worker loses the right to remain (if they have not yet obtained an independent right of residence which is normally granted after three years under Dutch law) when the migrant worker is expelled.

(The Committee considers that migrant worker's family members, who have joined him or her through family reunion, may not be expelled as a consequence of his or her expulsion, since these family members have an independent right to stay in the territory).

Norway

Art. 7§6: Young workers are not entitled to have their training time paid as working hours.

Portugal

Art. 7§3: The daily and weekly working time for children subject to compulsory education is excessive.

(According to Portuguese legislation: Between the ages of 7 and 12: 3 hours per day and 9 hours per week, with an additional three hours added to each limit in cases when the additional activity takes place on a day on which the child has no school activities. Between the ages of 12 and 16: 4 hours per day and 12 hours per week, with an additional 3 hours added to each limit in cases when the additional activity takes place on a day without school activities. Reference is made to a minimum framework specified in the Council Directive 94/33/EC of 22.6.1994 on protection of young people at work which limits working time of children to 2 hours on a school day and 12 hours a week for work performed in term-time outside the hours fixed for school attendance, provided that this is not prohibited by national legislation and/or practice and that in no circumstances may the daily working time exceed 7 hours. For children aged 7 to 16, the daily working hours are excessive and for children aged 12 to 16, the weekly working hours are excessive).

Slovak Republic

Art. 7§3: Definition of light work authorised by legislation is not sufficiently precise.

Art. 8§2: The dismissal of pregnant women and women on maternity leave can be justified by the relocation of the undertaking where they work. This is not in conformity with the Charter.

Slovenia

Art. 8§3: Breastfeeding breaks are not remunerated.

Sweden

Art. 7§9: A regular medical examination for all young workers is not guaranteed by legislation.

(In application of Article 7§9, domestic law must provide for compulsory regular medical check-ups for under-18 year olds employed in occupations specified by national laws or regulation. These check-ups must be adapted to the specific situation of young workers and the particular risks to which they are exposed).

Turkey

Art. 7§2: The minimum age of admission to employment in occupations regarded as dangerous or unhealthy is below 18 years.

Art. 7§4: Working time for children who have reached the age of 15 or are under 15 is manifestly excessive. (According to Labour Law No. 4857, children under 15 who have completed their compulsory primary education and do not attend school anymore may work for a maximum of 7 hours a day and 35 hours a week. These limits may be raised to 8 hours a day and 40 hours a week with regards to the children who have reached the age of 15 the work time is applied in such a way as to ensure that for each 24-hour period children and young workers are entitled to a minimum rest period of 14 consecutive hours. During school term children may work up to 2 hours per day and 10 hours per week for children attending school. A 30-minute break is given for work that lasts between 2 and 4 hours, and a 1-hour break is given for work that lasts between 4 and 7½ hours).

Art. 8§2: Not all employed women are entitled to reinstatement in case of unlawful dismissal during pregnancy or maternity leave.

(According to Labour Law No. 4857, female workers with an open-ended contract that have worked less than 6 months in the same enterprise, those with an open-ended contract working in an enterprise of less than 30 employees, and those with fixed-term contracts are not entitled to reinstatement in case of unlawful dismissal).

Art. 8§5: Pregnant women, women who have recently given birth or who are breastfeeding are only granted unpaid leave when they cannot be reassigned to another post because of the dangerousness of their usual work.

(The Committee underlines that if no reassignment for women who are pregnant or breastfeeding is possible, they should be entitled to paid leave).

Art. 27§2: The law does not provide fathers with a leave to bring up their children.

Ukraine

Art. 7§1: Definition of light work is not sufficiently precise as there is no definition of the types of work which may be considered light or a list of those which are not.

Regarding the 1961 European Social Charter:

Austria

Art. 19§6: The exclusion of the 'welfare support benefits' from the calculation of the income level is likely to hinder family reunion rather than facilitate it.

(With regard to welfare support benefits, the Committee considers that migrant workers who have sufficient income to provide for the members of their families should not automatically be denied the rights of family reunion on the grounds of the origin of such income, where its origin is not lawful or immoral and where they have a right to the granted benefit).

Croatia

Art. 7§4: Working hours for persons aged 15 are excessive.

(Pursuant to the new Ordinance on the carrying out of employment mediation activities of 2009, the maximum working hours of a young worker who has attained the age of 15 may not be longer than 7 hours a day or 35 hours per week. In exceptional cases, the limit can be raised to 8 hours a day or 40 hours per week. The Committee considers that this limitation of working hours is satisfactory for young workers over the age of 16, but is insufficient in respect of workers under 16).

Art. 8§3: Breastfeeding breaks are not paid as normal working hours and the amount of the benefits paid in lieu may result in loss of salary.

Czech Republic

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Art. 8§2: The exception to the prohibition of dismissal of women on maternity leave (in case of total or partial relocation of the undertaking's activities), is not in conformity with the Charter.

Germany

Art. 19§8: Migrant workers and their families (not EU citizens) may be expelled for having recourse to social welfare or for being homeless or for substance abuse.

Greece

Art. 8§1: Periods of unemployment are not taken into account when calculating qualifying periods needed to be entitled to maternity benefits.

Art. 19§5: Not all migrant workers from States Parties to the Charter benefit from the tax exemption for the acquisition of a first family house.

Art. 19§6: The requirement for a migrant worker to have lived for a period of two years in Greece before being able to exercise family reunion is excessive.

Art. 19§8: A migrant worker may be considered as a threat to public order and therefore be expelled simply where he/she has been prosecuted for a crime punishable by at least three months imprisonment.

Luxembourg

Art. 19§4: Certain categories of workers (according to the length of stay in Luxembourg) cannot be elected to joint works councils.

Spain

Art. 8§3: Domestic workers are not entitled to breaks for the purposes of breastfeeding their infants.

United Kingdom

Art. 19§8: Family members of a migrant worker who are nationals of Contracting Parties that are not members of the EEA or EU, as well as children of a migrant worker who are nationals of EU member States or parties to the EEA but are under 17 years of age, are liable to be expelled following a migrant worker's deportation.