

EUROPEAN SOCIAL CHARTER

THIRTEENTH REPORT ON THE APPLICATION OF THE EUROPEAN SOCIAL CHARTER SUBMITTED BY THE GOVERNMENT OF THE CZECH REPUBLIC (for the period until 31 December 2014)

Articles 1, 15 and 18 of the European Social Charter and Article 1
of the Additional Protocol to the European Social Charter

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ARTICLE 1: THE RIGHT TO WORK

Article 1, paragraph 1

“With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake: to accept as one of their primary aims and responsibilities the achievement and maintenance of as high and stable a level of employment as possible, with a view to the attainment of full employment;”

Employment policy of the Czech Republic

The Government of the Czech Republic, in compliance with its policy statement and in addition to the usual measures of the active employment policy, focused primarily on the systematic solution of the problem of unemployment, including its long-term component. The focused areas **particularly include:**

- Support for the creation of new jobs through the active employment policy and the system of investment incentives.
- Elimination of barriers that prevent disadvantaged persons from entering the labour market, support for older persons and persons under 25 years of age, and support of family and working life harmonisation.
- In the area of family policy, the focus is primarily on increasing and diversifying the supply of childcare services in order to increase the number of employed women-mothers, facilitate the successful return of parents to the labour market and their standing at their position, elimination of administrative burdens related to establishment and operation of childcare facilities, and improvement of the possibilities for parents as regards the choice of methods for reconciling their work and family life.
- In the social inclusion policy, the focus is on addressing poverty and social exclusion issues through stronger connections with the employment policy.

National Reform Programme of the Czech Republic for 2014

The National Reform Programme (hereinafter the “NRP”) is annually approved by the Czech government in order to meet the national targets within the Europe 2020 Strategy. In 2014, the employment-related objective of the programme included development of employment services, particularly consolidation and further increase of efficiency of their operations after the reform performed in 2011. This reform centralised public employment services and merged the existing 77 district labour offices into one institution - the Labour Office of the Czech Republic (hereinafter the “Labour Office”) consisting of the General Directorate and regional offices. **The Labour Office hired additional staff both in the field of employment, particularly for direct cooperation with employers, and non-contributory social benefits.**

In order to promote job creation, NRP requires broadening of the areas in which it is possible to provide material support for job creation and training of employees from the regions where the unemployed rate is higher than the national average by 50 % also to regions with unemployment rate 25 % higher than the national average. It also enables for grading of the provided support depending on the character of individual regions. In 2014, these steps were preceded by the increase in support provided for each newly created job from CZK 50,000 to CZK 200,000.

In accordance with the “Guarantees for the Youth Programme”, NRP also aims at the support of young people in the labour market. The Government of the Czech Republic *guarantees that every young person under the age of 25 will receive a quality* job offer, further education, professional, special training or internship within four months after becoming unemployed, completing formal education, or dropping out of the formal education system. The offer of further education also applies to the high-quality training programmes that lead to recognized professional qualifications.

The next measure is a better targeting of the active labour policy and improving of cooperation on the labour market, especially on the regional markets. For these reasons, the internal regulation of the Directorate General of the Labour Office formalised the procedure for organizing advisory bodies of individual branches of the Labour Office established under Sec. 7 of Act No. 435/2004 Coll., the Employment Act.

Specifically, the NRP pays attention to increasing the promotion of employing elderly workers. This group is mainly supported by tools, measures, and programmes of the Labour Office.

All the measures referred to in the NRP are carried out continuously.

The Employment Policy Strategy until 2020

On 15 October 2014, the Czech government issued Resolution No. 835 which adopted the Employment Policy Strategy until 2020. The strategy is a basic strategic document in the field of employment policy. It aims at meeting the objectives of the employment policy until 2020. The objectives include:

- Increase the employment rate in the age group 20-64 years to 75 %
- Increase the employment rate in the age group 55-64 years to 55 %
- Increase the employment rate of women in the age group 20-64 years to 65 %
- Reduce the unemployment rate of people with low qualification (ISCED 0-2) to 18.75 %
- Reduce the unemployment rate in the age group 15-24 years to 12.2 %

The Employment Policy Strategy aims in particular at promotion of access of disadvantaged persons to the labour market, equal opportunities, increasing of the labour force adaptability, and ultimately at the development of employment services. It is therefore divided into four priorities which must be paid attention to:

1. Supporting the access to employment, mainly for groups at risk in the labour market
2. Promoting equality between women and men in the labour market
3. Adapting the enterprises, employees and the unemployed to labour market changes and needs
4. Development of employment services

The Employment Policy Strategy until 2020 for the period 2014-2017 has been further elaborated into concrete measures. The measures were defined in the Activation Measures to Tackle the Unfavourable Situation on the Labour Market document which was approved by

the Czech Government Resolution No. 891 adopted on 3rd November 2014. The document contains 37 specific measures to improve the situation on the labour market.

Legal Framework

1 January 2011 to 31 December 2014

In this period the main piece of legislation in the field of employment was Act No. 435/2004 Coll., the Employment Act, as amended (hereinafter the “EA”).

On 1 January 2011, the EA amendment came into force (in Act No. 427/2010 Coll.). The aim of the amendment was the transposition of Council Directive 2009/50/EC on the conditions of admission of third-country nationals for the purpose of highly qualified employment into the Czech legislation (“the Blue Cards Directive”).

The Blue Card is a dual residence and employment permit intended for workers with high qualifications who will have at least one-year employment contract with a fixed weekly working time (40 hrs./week) and an agreed gross monthly or annual wage reaching at least 1.5 times the average gross monthly/annual salary in the Czech Republic (as presented by the Communication of the Ministry of Labour and Social Affairs - "MLSA"). A high qualification is considered a properly completed university education or higher vocational education which lasted at least three years.

As part of Social reform, amendment to the EA came into effect since 1 January 2011. The amendment brought following changes:

- Elimination of the possibility to draw unemployment benefits in concurrence with performance of the so-called non-colliding employment,**
- Elimination of unemployment benefits providing concurrently with severance pay. In these cases, the unemployment benefit is provided after a period to be determined by the number of multiples of average earnings or monthly service revenue from which was derived from the minimum amount of compensation or severance pay provided for by other legislation. Provision of unemployment benefit for the entire support period is not affected.**
- Job seekers who prior the inclusion in the register of job seekers resigned from the last employment or ended the employment by an agreement with the employer without serious reason, will be provided unemployment benefits at a lower percentage, i.e. 45 % of the average monthly net income, from the outset of the support period.**

Since 1 January 2012, job seekers who have not been paid the severance pay in their last employment to which they were legally entitled may ask for “compensation”. The compensation amounts to 65 % of the average net monthly earnings in the last employment. The compensation shall be granted in the amount of 0.15 share of the average national wage for the first to the third quarter of the calendar year preceding the calendar year in which the job seeker was registered in the job seeker register.

Furthermore, the decisive period for assessing unemployment benefit entitlements was shortened from three to two years.

A subsidy to support persons with disabilities (hereinafter referred to as “PWD”) may only be provided to those employers of PWDs who employ more than 50 % of PWDs with respect to their total staff. The subsidy amount shall be equal to the labour costs actually spent on the PWD employee within the employment relationship, including social security premiums, state

employment policy contribution, and the public health insurance which the employer calculated and paid from the employee's assessment base. The cap on the subsidy is CZK 8,000. A new aspect is the employer's participation in bearing the labour costs – the employer shall receive up to 75 % of the labour costs incurred, up to the already mentioned maximum of CZK 8,000.

The Employment Act amendment which came into force on 1st January 2012 merged the institutes of sheltered workshops and sheltered employment. This enabled support of every job created for persons with disabilities. If an employer creates a new job for a PWD under an agreement with the Labour Office, it is considered a sheltered employment that must be filled for at least 3 years. The Labour Office shall provide a subsidy to creation of this job. The Agreement on sheltered employment can be also entered into with a self-employed PWD.

Until 31 December 2011, the **subsidy to creation of a socially-beneficial job** could be provided for a maximum period of 6 months, or 12 months for certain categories of applicants (persons over 50 years of age, PWC). Since 1 January 2012, the subsidy can be provided for 12 months to all job seekers.

Since 1 January 2011 bridging allowances were reintroduced (Sec. 114 of the EA) which may be provided to persons who commence their self-employment under an agreement with the Labour Office on creating a socially beneficial job for the purpose of self-employment. The allowance shall cover part of the operating costs of the self-employed person in the first months of their business activities. It shall be provided monthly, for a maximum period of 5 months. The amount shall reach 0.25 share of the average wage in the national economy.

The request for a subsidy to individual **active employment policy instruments** must be accompanied, among other things, with a **confirmation that the applicant is not in tax or insurance arrears, does not have unpaid penalties for public health insurance**, social security insurance, or state employment policy contributions. Since 1 January 2012, in order to reduce the administrative burden on employers and encourage creation of new jobs the Labour Office may directly ask the relevant institutions to present the required confirmations.

The staff of authorities performing inspection activities is allowed to ask the individuals who are in the inspected workplace and perform work here to prove their identity and their eligibility to perform the work based on an employment relationship or other contract. Foreigners may be also asked to present their work permits and residence permits, or their Blue or Employment Cards. In case of failure to meet these obligations, the inspection authority is entitled to impose a fine up to CZK 5,000. The fine may be imposed repeatedly, up to the amount of CZK 50,000.

On 5 January 2012, an amendment to the EA (implemented through Act No 1/2012 Coll.) which made the transposition of Directive 2009/52/EC of the European Parliament and of the Council providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (so-called sanctions directive).

On 24 June 2014 came into force the EA amendment (in Act No. 101/2014 Coll.) which harmonised the legislation on foreign employment and amendment to Act on the Residence of Foreigners in the Czech Republic according to the transposition of Directive 2011/98/EU on a uniform procedure of processing applications for a single permit to reside and work in the territory of a Member State submitted by third-country nationals and on the common set of rights for third-country workers legally residing in a Member State.

The amendment introduced a new type of long-term residence permit - the "Employee Card". The card is issued by the Ministry of Interior. It entitles its owner to a long-term residence for

employment purposes. Because of a “dual character” of the card, foreigners who want to work in the Czech Republic do not have to submit separate residence permit and work permit applications. Now the Ministry of Interior issues the residence permit and the work permit to be employed in the territory of the Czech Republic at the same time (on condition that all legal conditions are met).

The issued Green Cards remain valid until their expiration and they are considered an equivalent of Employee Cards. When extending the validity, the administrative procedures are the same as for Employee Cards.

In the years 2011 – 2014, there were the following projects aimed at employment of foreigners:

“Fast Track” and „Welcome Package for investors“ projects

New investment projects in the Czech Republic, successful start-up activities and the transfer of business know-how require the presence of foreign managers and specialists who are able to speed up and facilitate the entire process. The aim is to train the Czech employees through learning the know-how from international specialists and thus create new jobs for Czech employees.

These were the objectives of the “Fast Track” and “Welcome Package for investors” projects. The projects were aimed at streamlining the procedure for entry and employment of intra-corporate transferees and localized workers from third countries who are being posted by their employers within investments in the Czech Republic.

Both projects are administered by the Ministry of Industry and Trade. MLSA is the co-administrator in these projects.

The “Fast Track” project was launched on 1 February 2012; the “Welcome Package for investors” project was launched on 1 July 2013. Detailed information on both projects can be found on the website of Czechinvest <http://www.czechinvest.org/vizova-problematika>.

The “Sociální tlumočení ve styku s cizinci” project (Social interpretation in contact with foreigners - in 2011 and 2012)

This was a MLSA project implemented in 2011 and 2012. The total cost were CZK 852,560 (CZK 397,706 in 2011 and CZK 454,854 in 2012).

The objective of the project was to address the problems associated with the lack of knowledge of the language of newly arrived foreigners and the lack of information on the side of the foreigners which leads to dependence on interpreters, intermediaries, or agencies which often try to take advantage of the foreigners’ unfavourable situation.

Outputs:

- Creation of a training module for potential social interpreters from Vietnamese, Mongolian, Russian, Bulgarian, and Romanian communities;
- 26 trained interpreters who have completed paid internships at various locations (in schools, non-profit organisations, or also at the regional branch of the Labour Office, in medical facilities, or at a tax office);
- Creation of a social interpretation methodology including PowerPoint presentations relating to individual language modules.

The Formování profese “sociokulturní mediátor” – inspirace portugalským modelem project (Definition of the “socio-cultural mediator” profession - inspired by the Portuguese model, implemented in 2012 - 2014)

This project was implemented by InBáze, o.s. in cooperation with the MLSA (total costs CZK 7,138,566.46).

The objective of the project was to unify the practice of various NGOs regarding the employment of migrants as interpreters, assistants, or mediators. The project also systematically anchored and professionalised the service of reducing linguistic and socio-cultural barriers between the migrants and public institutions.

Outputs:

- Qualification course for social service employees aimed at provision of assistance and counselling services to migrants (in Russian, English, Chinese, Mongolian, Arabic, and Vietnamese). The course was successfully completed by 17 intercultural workers;
- Dictionaries for intercultural work in seven languages containing about 1,000 entries from the areas the migrants meet with during their life in the Czech Republic (the set of dictionaries for intercultural work won the “Dictionary of the Year 2015” prize awarded by the Association of Translators and Interpreters);
- Publication The profession of an intercultural worker, foreign experience, practice and education in the Czech Republic, analyses, theoretical and methodological bases of intercultural work, etc.

The Inovacemi k prevenci pracovního vykořisťování občanů EU project (Prevent of labour exploitation of EU citizens through innovations, implemented in 2013 - 2015)

This was a MLSA project (total cost CZK 4,474,284.00).

The main objective of the project was to introduce innovative measures in order to prevent labour exploitation and human trafficking, identification of functional tools and mechanisms for preventing labour exploitation in the original EU-15, system implementation and application of the previous experience, mechanisms, and best practices.

The Rozvoj poradenství poskytovaného Úřadem práce pro cizince project (Counselling services provided by the Employment Office to foreigners, implemented in 2013 - 2015)

The project aims to expand and modernise services provided by the Labour Office with focus at increasing and deepening the qualifications of employees of regional branches of the Labour Office, modernisation and expansion of services in the field of foreign employment, and employee counselling and intermediary services (total cost CZK 9,170,199.48).

The list of the projects aimed at promotion of foreigner integration financed by the ESF and administered by the MLSA is available at <http://www.mpsv.cz/cs/19032>.

Basic statistical data of the labour market in 2014

After a significant decline in **employment** in the first years of the global financial and economic crisis, the total employment began to rise in 2011. In 2011 and 2012 it increased by 0.4 %, in 2013 the increase in employment reached 1.0 %. In 2012 and 2013 employment grew mainly due to the increasing number of part-time jobs. While the decrease in employment in 2009 and 2010 affected especially men, the increase in 2011 to 2013 was mainly driven by women. In 2014 the situation reversed. The number of employed men increased by 22.9 thousand to 2,817.0 thousand while the number of women increased by

14.3 thousand to 2,157.3 thousand. However, compared to the previous year the share of employed men (56.6 %) and women (43.4 %) remained the same.

The overall **employment rate**, as measured by the Labour Force Survey of the CSO, rose in all spheres of national economy of the Czech Republic - to **4,974.3 thousand persons**, the year-on-year increase was **37.2 thousand persons**, i.e. **0.8 %**.

The overall employment rate of the population aged 15+ **increased** by 0.5 percentage points year-on-year to **55.7 %**, **in the segment of persons aged 15-64 it increased by 1.3 pp to 69.9 %**. The employment rate of the population aged 20-64, which is one of the indicators of the Europe Strategy 2020, increased by 1.0 pp to 73.5 %, the employment rate of women of the same age increased by 0.9 pp to 64.7 % (the value for men in this age group rose by 1.2 pp to 82.2 %), the employment rate in the age group 55-64 rose by 2.4 pp to 54.0 %.

Employment in the primary sector fell by 12.9 thousand year-on-year to 136.7 thousand persons. The share of this sector in total employment decreased (by 0.3 pp) to 2.7 %. The total increase in employment was mainly due to the secondary sector (industry incl. construction sector) where employment grew by 40.2 thousand to 1,892.1 thousand persons. The share of this sector increased (by 0.5 pp) to 38.0 %. The increase was driven by industry where the number of employees increased by 46.6 thousand to 1,478.2 thousand. The share of industry in the total employment increased (by 0.7 pp) to 29.7 %. Employment in construction (building) sector fell by 6.4 thousand to 413.9 thousand persons. The share of construction in total employment decreased (by 0.2 pp) to 8.3 %. Employment in the tertiary sector rose by 9.8 thousand to 2,945.4 thousand persons. Due to the slower growth, the share of the tertiary sector in total employment decreased (by 0.3 pp) to 59.2 %.

The number of employees who make up the largest group of employed persons (82.0 %) increased by 24.1 thousand to 4,079.3 thousand. The increase was driven by the increase in the number of employed women (by 26.9 thousand to 1,880.2 thousand). The number of men decreased (by 2.8 thousand to 2,199.1 thousand). The number of employees with indefinite time employment contracts decreased by 0.9 thousand to 3,662.7 thousand persons; the number of employees working on fixed-term contracts, including temporary work, casual, seasonal, and other time-limited contracts, rose by 23.9 thousand to 414.7 thousand persons. There was a significant increase (by 46.9 thousand to 4,657.7 thousand persons) in the number of people working full time. At the same time, unlike the last two years, the number of employees with shorter working hours decreased by 9.8 thousand to 316.4 thousand persons. The number of women decreased by 10.6 thousand to 224.8 thousand persons and the number of men stagnated (it increased by 0.8 thousand only).

The **annual** growth in employment was not the same in all groups of people in the productive age. It was apparent **especially in the younger and older age groups**. The employment rate of employees **under 25 years rose** by a total of **6.1 thousand (2.1 %)**. The number of employees aged 55-64 rose by 18.3 thousand (2.4 %) although the total number of people in this age group decreased. This is due to the increase in the age limit for retirement (there was a noticeable increase in employment of men aged 60-64 - by 9.9 thousand and women aged 55-59 - by 6.9 thousand. The increase was also recorded in employment of women aged 60-64 - by 4.0 thousand. The positive trend in total employment was only marginally corrected by a small decrease in the number of employed pensioners. In 2014, there were 164.5 thousand employed old-age pensioners, i.e. by 5.5 thousand less than in 2013.

The favourable economic situation also reflected in the number of cases of collective dismissal. While in 2013 340 employers reported collective dismissal of a total of 17,489 employees, in 2014 it was 207 employers who reported a total of 9,954 employees that were subject to collective dismissal.

Statistical data of the MLSA on employment of foreign citizens in the Czech Republic during the years 2012 - 2014 are not available due to ongoing integration of information systems. Thus we provide approximate values for the years 2012 – 2014.

**Overview of employment of foreign citizens in the Czech Republic in the years
2004 - 2014, Total values**

	2004	2005	2006	2007	2008	2009	2010	2011	2012 ^{x/}	2013 ^{x/}	2014 ^{x/}
EU/EEA and Switzerland	72,840	93,867	116,846	144,751	141,101	139,315	143,997	154,560	158,195	159,659	196,345
Foreigners outside the EU/EEA and Switzerland	35,144	57,869	68,229	95,491	143,450	91,394	71,370	63,302	63,749	64,625	64,654
Total	107,984	151,736	185,075	240,242	284,551	230,709	215,367	217,862	221,944	224,284	260,999

^{x/} approximate values

**Overview of employment of foreign citizens in the Czech Republic in the years
2004 - 2014, Women**

	2004	2005	2006	2007	2008	2009	2010	2011	2012 ^{*/}	2013 ^{*/}	2014 ^{*/}
EU/EEA and Switzerland	18,878	26,107	36,004	45,258	44,926	45,162	46,873	50,398	*	*	*
Foreigners outside the EU/EEA and Switzerland	12,157	19,403	22,462	33,578	49,860	33,654	28,102	26,102	*	*	*
Women in total	31,035	45,510	58,466	78,836	94,786	78,816	74,975	76,510	*	*	*

^{*/} data not available

As of 31 December 2014, there were about 260,999 foreign employees in the Czech Republic, out of which were about 196 thousand from the EU/EEA countries and from Switzerland, including their family members. About 64.5 foreign employees came from third countries (about 20.5 thousand foreigners needed a work permit, Employee Card and about 44 thousand foreigners had free access to the labour market granted by the EA).

In 2014, the **general unemployment rate** (according to the ILO methodology) decreased to 6.1 % due to a decrease by 0.9 percentage points when compared with 2013. This was due to a decrease of the number of the unemployed by 45.3 thousand persons. **The proportion of unemployed persons¹ (relative index of registered unemployment reported by MLSA on the basis of the number of registered job seekers) remained at the previous year's value of 7.7 %.**

¹ The share of unemployed persons is calculated as a ratio of unemployed job applicants aged 15-64 to the entire population of the same age. Since 2013 this index has replaced the registered unemployment rate. The time series starting in 2005 is available at: http://portal.mpsv.cz/sz/stat/nz/casove_rady.

In 2014, the average number of job seekers fell by 3.0 thousand to 561.4 thousand. At the end of December there were 541.9 thousand registered job seekers, which was about 54.9 thousand less than in the year before.

The numbers of reported vacancies has been steadily slightly increasing in 2014. At the end of December their number reached 58.7 thousand, which represented a year-on-year increase by 23.5 thousand persons. The average value for 2014 reached 48.7 thousand persons.

The number of job seekers per 1 vacancy (11.5) decreased in comparison with 2013 (14.5). Thanks to the acceleration of the increase in vacancies and the decline of the number of job seekers, the difference in this indicator values at the end of 2014 (9.2) and at the end of 2013 (17.0) was more significant.

As of 31 December 2014, the Labour Office registered 61.1 thousand disabled job seekers ("PWD") which is 1.6 thousand less than in the previous year. The proportion of PWD in the total number of unemployed persons at the end of 2014 slightly increased (from 10.5 %) to 11.3 % in comparison with the same period of 2013 due to the slower decline.

The number of job seekers older than 50 years declined at the end of the year by 4.0 thousand persons to a total of 158.1 thousand persons (on the other hand, the number of job seekers in the age category of 60 years and more rose by 3.0 thousand). Their share in the total number of job seekers increased by 2.0 pp to 29.2 %.

The number of job seekers in the age category of 25 years and less declined by 20.1 thousand. On 31 December 2014 there were 79.9 thousand job seekers falling within this category. Their share in the total number of unemployed persons accounted for 14.7 %, which represented a 2.1 pp decrease since 2013.

The number of graduates and young people who just finished their studies decreased by 12.0 thousand to 27.5 thousand. Their share in the total number of job seekers decreased from 6.6 % to 5.1 %.

The average number of registered women reached 280.4 thousand in 2014 which represented an increase by 3.0 thousand persons. The average number of registered men reached 281.1 thousand, which was by 6.0 thousand less than in 2013. The average share of women in the total number of registered unemployed persons rose to 49.9 % (from 49.1 % in 2013).

As of 31st December 2014, the number of men registered by the Labour Office reached 273.0 thousand and the number of women 268.9 thousand.

The number of job seekers who were registered more than 12 months remained almost unchanged at 237.2 thousand, yet their share in the total unemployment increased from 39.7 % to 43.8 %. The increase was mainly due to the long-term unemployed (more than 24 months). Their number increased by 15.7 thousand to 146.5 thousand persons.

In 2014, the most significant decrease occurred among the job seekers with secondary vocational education (by 32.3 thousand), secondary vocational education with final examination (by 16.4 thousand) and the job seekers with basic education, including early school leavers (by 14.0 thousand). The highest growth was recorded in less numerous categories (secondary education without final examination, A level apprenticeship graduates, graduates of grammar schools).

In its Conclusions The European Committee of Social Rights asks the following questions concerning Article 1 para. 1:

The Committee finds that employment policy efforts in the Czech Republic, measures both in the terms of the activation rate and spending on active labour market measures, were modest during the reference period. It asks in particular if there are plans to expand the coverage of active measure beyond there 9.7 % of job seekers which participated in activation measures in 2009.

Active labour market measures in the Czech Republic

Active Employment Policy (hereinafter referred to as the “AEP”):

In the Czech Republic, the AEP is enshrined in the EA. It consists especially of tools supporting creation of jobs for job seekers from among the persons the individual characteristics of who, such as age, health, care for child or a dependent person, a low qualification, or some other social reason, entitle them to an increased care in the means of finding a job.

Community service (Sec. 112 EA)

The community service means part-time work opportunities consisting especially in maintenance of public spaces, cleaning and maintenance of public buildings and roads, or similar activities for a municipality or for government or civic institutions. These job opportunities are created for 24 consecutive calendar months at most (until 31 December 2014 it was 12 months only) and they may be created repeatedly. The job opportunities are based on an agreement with the Labour Office and the Labour Office may subsidise them. The subsidy may reach up to 100 % of the cost, including social security and health insurance premiums. The usual amount is between CZK 15,000 to 24,000.

Socially beneficial jobs (Sec. 113 EA)

Socially beneficial jobs (hereinafter referred to as the “SBJ”) are based on an agreement with the Labour Office. The job is reserved or created by the employer for job seekers the individual characteristics of who prevent them from finding job in another way (e.g. the long-term unemployed). The employer receives a subsidy to cover wage costs for up to 12 months. The subsidy may reach up to 100 % of the cost, including social security and health insurance. The usual amount is between CZK 15,000 to 24,000.

Employer may receive a one-time financial grant to the created SBJ in order to allow purchases of the necessary equipment. The amount is set by law and varies depending on the nature of the region and the number of created jobs. In the case of regions with a below-average share of the unemployed, the amount of the grant is four-times the value of the average wage when creating less than 10 jobs and six-times the value of the average wage when creating more than 10 jobs. In the regions with an above-average share of the unemployed, the amount of the grant is six-times the value of the average wage, or eight-times the average wage. An SBJ can also be created by the job seeker himself when commencing self-employment.

Bridging allowance (Sec. 114 EA)

A self-employed person who commences self-employment on the basis of an agreement with the Labour Office on establishment of SBJ may be entitled to a subsidy for covering part of the operating expenses associated with the self-employment. The Labour Office may provide the subsidy once for a period of five months while the maximum monthly amount is 0.25 times the average wage.

Induction contribution (Sec. 116 EA)

The induction contribution may be granted on the basis of an agreement with the Labour Office and an employer who recruited job seekers entitled to an increased employment mediation support. The contribution is provided for three months at a monthly maximum amount of half the minimum wage per person.

Transition to a new business program (Sec. 117 EA)

If the employer is unable to assign work to his employees because of a transition to a new business program, the Labour Office may provide them a wage compensation for employees who cannot be assigned work due to the transition. The compensation can be provided for a maximum of half the minimum wage for a maximum period of 6 months.

Individual Action Plan (Sec. 33 para. 2 EA)

The AEP instruments designed to tackle long-term unemployment also include individual action plans (hereinafter referred to as the "IAP"). IAP is a document drawn up by a regional branch of the Labour Office in cooperation with the job seeker. IAP especially includes the procedure and timetable for implementation of individual measures to increase the job seeker's chance to find a job. When determining IAP content, the essential factors are the job seeker's qualification, health status, opportunities, and abilities. The job seeker can apply for IAP any time during his inclusion in the job seeker register. The IAP is drawn up by the regional branch of the Labour Office whenever a job seeker is continuously included in the job seeker register for more than 5 months. The job seeker is obliged to cooperate with the regional branch of the Labour Office when drawing up, updating, and evaluating IAP and to meet the conditions laid down therein.

Retraining (Sec. 109, 109a EA)

Retraining serves for ensuring consistency between supply and demand on the labour market in terms of individual qualifications. Through this instrument the Labour Office provides retraining courses for job seekers. The courses serve for deepening, increasing, or obtaining new qualifications that are demanded in a given place and time. In this form of support job seekers receive financial subsidies during their retraining. Since 1 January 2012, job seekers can also choose the retraining course and the retraining establishment themselves. This shall be done on the basis of an analysis of their own skills, competencies, and employment opportunities. If the Labour Office finds the selected retraining beneficial for the job seeker's prospective work opportunities, it pays the costs of retraining to the retraining establishment. The amount of payment for a job seeker can reach up to CZK 50 000 during three years.

At the regional level, the support of specific target groups is performed through employment programs implemented as individual projects by regional branches of the Labour Office, often in cooperation with regional partners, including NGOs. These programs vary regionally, but all of them comprehensively address the needs of the target groups and combine the AEP instruments mentioned above into a single measure.

The most commonly used instruments AEP in 2014 were:

Community service - 22,967 job seekers

Socially beneficial job, reserved - 30,513 job seekers

Socially beneficial job, created - 185 job seekers

Socially beneficial job created for the purpose of self-employment - 2,383 job seekers

Retraining - 46,451 job seekers

In total, 115,379 job seekers (out of 561,400) were supported by the AEP tools in 2014.

As noted above, the current government plans to increase the number of job seekers included under AEP instruments are contained in the Strategy for Employment Policy until 2020 and quantified in the Policy's implementation document "Activation measures to tackle the unfavourable situation on the labour market" (annually support 100,000 persons). Thanks to these plans the real number of persons supported via AEP grows.

Expenditure: in 2014, the overall expenditures on AEP reached CZK 6.4 billion which represented 0.15 % of GDP. However, it must be noted that another CZK 4 billion were spent on support of employers at whom the share of PWD employees was higher than 50 % of their total staff (Sec. 78 of the EA). This contribution has not the status of an AEP instrument in the Czech legal order, but it fulfils its purpose - i.e. it supports disadvantaged persons in the labour market. With these payments, the share of expenditure on tools aiming to support disadvantaged people in the labour market reached 0.24 % of GDP.

The Committee requests that the next report mentioned whether any concrete measures to promote the employment of women and the long-term unemployed have been adopted.

The most common AEP tool used in relation to the promotion of the long-term unemployed and women is the community service the purpose of which is to activate and motivate job seekers to further participation in the labour market and provide them with an opportunity to renew or acquire work habits and other skills necessary for finding a job, including the acquisition of social-labour relations.

The activation of long-term unemployed job seekers, especially those at risk of social exclusion, was the primary objective of a new AEP instrument – the activating job opportunity – which was tested in 2014. This measure aimed at support of creation of short-term jobs (for three months at most with the maximum earnings up to half the minimum wage, which is compatible with in person's inclusion in the register of job seekers). The result was the restoration of work habits and improved financial situation of the long-term unemployed while preserving the rights and obligations of job seekers. Currently, the aim is to bring closer the employment policy and the social benefit system and activate the long-term unemployed through the benefit system and a simultaneous employment of a limited scope.

The labour market participation of women (with a view to reconcile their work and family life) is supported by the all the above mentioned instruments. SBJ and community service are methodically favoured through the amount of contribution and by facilitating part-time jobs.

The Committee notes that the labour market measures should be targeted, effective, and regularly monitored. It asks in this respect whether the employment policies in place are monitored and how their effectiveness is evaluated.

AEP implementation is monitored by the agenda system of the MLSA. Although the measuring of effectiveness of the active employment policy is not performed on a continuous basis (due its complexity and high requirements for the analysed data), the positive effects of the instruments on employment of the supported groups have been proven in the long term. In the Czech Republic, this issue has been mainly addressed by the Research Institute of Labour and Social Affairs. The latest results were published in 2012 in the study by O. Hora and T. Sirovátka named *Comparison of the effects of active employment policy in the Czech Republic in the period of growth (2007) and during the first phase of the crisis (2009)*. The study dealt

with comparison of the impact of AEP instruments (community service, SBJ, retraining, IAP, and targeted programmes) in the years of economic growth and in the years of crisis. Due to its nature, the study's findings are crucial for the MLSA in terms of assessing the AEP effects. The study compares the percentage of AEP participants in the register of job seekers in a given time period after the intervention (participation in an AEP instrument). Then it compares this rate with the participation rate of the "control group" (applicants with more or less the same characteristics which leads to creation of participant/non-participant pairs with identical characteristics). The study shows a positive effect especially in subsidised jobs. In the case of retraining it is necessary to point out the fact that its benefits for the supported persons are long-term. They can be perceived particularly in the context of the economic recovery (during the crisis the efficiency is expected to be lower due to the very low demand for labour since a retraining itself is not able to remove the major limiting factor - the lack of work opportunities).

Inclusion (in %) of the supported persons/control group in the register of job seekers after X days after the end of the intervention (selected instruments):

Instrument	After:	30 days	180 days	360 days
SBJ	Participation	12.7 %	9.1 %	16.3 %
	Control group	89.1 %	31.3 %	32.8 %
Community service	Participation	32.6 %	16 %	15.8 %
	Control group	88.2 %	50.4 %	54.2 %
Retraining	Participation	76.3 %	62.7 %	49.9 %
	Control group	86 %	39.4 %	41.5%
AEP in total	Participation	12 %	12.9 %	9.6 %
	Control group	86.2 %	41.7 %	44.2 %

** The figure is distorted by including IAP which is mandatory for all job seekers who have been registered for more than five months.*

The MLSA is systematically concerned with adjusting a system for continuous evaluation of the AEP effects. The problem are legal and technical issues related to obtaining information from several separate systems. Yet the MLSA supports setting of an appropriate, continuous, and objective effect evaluation of AEP.

The Committee requests that the next report to provide information on any employment restrictions of foreign nationals.

The restrictions apply to applicants for international protection who cannot obtain work permit earlier than 12 months from the date of filing an application for international protection. The reason for this measure is to prevent the abuse of the international protection institute.

The Committee asks the next report to provide information on the results of positive action measures adopted in order to promote equality, opportunities in access to employment, including the opportunities, inter alia for the Roma .

The measures to support the employment of persons with low qualifications or those at risk of social exclusion is one of the priorities of the state policy both in the social sphere and the sphere of employment and regional development. Attention is paid to interactions between the social policy and the employment policy at the governmental level while the local governments offer incentives to take up employment, assistance services, counselling regarding preparation for starting a job and keeping a job, activation measures - e.g. in the form of short-term jobs, community service opportunities, social integration in the workplace, strives for an effective use of the instruments - particularly in the area of financial literacy, debt relief, finding the optimal combination of social income and employment income, etc.

Sec. 4 EA prohibits any discrimination and obliges all entities to ensure equal treatment for all persons exercising their right to employment. Vacancies should not be discriminatory in nature and must meet the conditions of work in terms of the special protection of women at work and conditions stipulated in the Labour Code (Sec. 237 et seq.).

The monitoring of compliance with the measures aimed at promoting equality and non-discrimination is carried out by the State Labour Inspection Office (hereinafter referred to as "SLIO"). Given the seriousness of discriminatory behaviour and unequal treatment, in 2014 SLIO added a new separate main task in its program of inspection activities. The task is to focus on compliance with the obligation of equal treatment and non-discrimination in exercising the right to employment. The aim is to detect violations of law and improve employability of disadvantaged persons. The inspection activities were aimed at job offers advertised by employers, monitoring of job offer on Internet portals and in the media, and checks of compliance with neutral formulation requirements (no restrictions in terms of age, sex, state of health, etc.).

Most violations concerned potentially discriminatory job offers in terms of favouring certain groups of candidates (regarding their age or gender) - e.g. formulations like "we are searching for a women to 25 years, we are looking for a woman pensioner, cook, bartender, etc.). However, most of these cases were not targeted discriminations but inadvertently erroneous formulations or omissions. Yet we can say that there has been an overall improvement and employers pay due attention to the equal treatment now.

Results of monitoring and inspections

Act No. 435/2004 Coll.	Description of violations	Number of violations
Sec. 4	The employer admitted unequal treatment or discrimination in exercising the right to work	58
Sec. 5 point e)	Employer allowed performance of work without entering into the employment relationship	2
Sec. 12 para. 1 point a)	Employer advertised an employment offer which contained a discriminatory element	45
Sec. 12 para. 2	Within the employee selection procedure the employer required information on trade union membership	1
Section 87	Employer failed to inform in writing the	2

	regional branch of the Labour Office on employing a foreigner	
Sec. 102 para. 2	Employer failed to meet their obligation to keep records of foreigners with permanent residence	1
Section 136	Employer did not keep copies of documents proving the employment relationship on their workplaces	2

Act No. 262/2006 Coll.	Description of violations	Number of violations
Sec. 16 para. 1	Employer did not ensure equal treatment to all employees in terms remuneration for work	1
Sec. 76 para. 4	Employer violated their duties when arranging an agreement to perform work	1
Sec. 110 para. 1	Employer failed to meet the obligation of equal remuneration for equal work	1
Section 138	Employer did not arrange conditions for remuneration payment within the contract for work	1

Act No. 312/2002 Coll.	Description of violations	Number of violations
Sec. 9 para. 1	Employer failed to comply with the prescribed competitive hiring procedure	1

During the reference period, Regional Labour Inspectorates imposed a total of 29 fines in the amount CZK 216,000 (there are other 33 pending fines in the estimated amount of CZK 213,000). The fines were set depending on severity of the violation, whether it was a one-time mistake or whether it was a systemic issue, and depending on the specific circumstances of each case.

Article 1, Paragraph 2

“With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake: to protect effectively the right of the worker to earn his living in an occupation freely entered upon;”

During the reference period the situation in the Czech Republic did not change.

In 2011, the employment services helped to mediate jobs in the open labour market (excluding the jobs created within the AEP) to a total of 4,904 persons. In 2012, the number fell to 2,382 persons, in 2013 it slightly increased to 2,678 persons and in 2014 it rose to 7,071 persons.

While in mid-2008 employers reported more than 150 thousand vacancies to the Labour Office, in 2011 there were on average only 36,493 vacancies. The number slightly increased in 2012 to 39,878. In 2013 the average number decreased again to 38,964. A gradual growth began in 2014 when the average number reached 48,682. At the end of 2014 there were even 58,739 registered vacancies.

Monthly averages	Vacancies registered by the Labour Office	Job seekers job placement - total	From col.2: job seekers posted by the Labour Office	Share of the job seekers posted by the Labour Office to all reg. vacancies (%) col. 3/col. 1	Share of the job seekers posted by the Labour Office to all successful job seekers (%) col. 3/col. 2
	1	2	3	4	5
2011	36,493	38,299	4,904	13.4	12.8
2012	39,878	27,815	2,382	6.0	8.6
2013	38,964	24,116	2,678	6.9	11.1
2014	48,682	38,622	7,071	14.5	18.3

In its conclusions of the previous Report regarding Article 1, para. 2 the European Committee of Social Rights asks for an answer to the following question:

The Committee considers that in certain cases and under certain circumstances the loss of unemployment benefits on ground of refusal to accept proposed employment could amount, indirectly, to a restriction of the freedom to work and the right to freely choose employment.

According to Sec. 20 of the EA, the definition of mediation of a suitable employment is based on ILO Convention No. 168 which takes into account the job seeker’s medical fitness, qualification, skills, abilities, the length of the previous employment, and accommodation possibilities, and also the accessibility of the work (not only in terms of a distance, but also frequency of the public transport - i.e. transportation services in the area).

The suitable employment definition set out in *Sec. 20 of the Employment Act* says:

- (1) *Each natural person has the right to a suitable employment mediation. Unless stipulated otherwise, a suitable employment is a job,*

- a) which imposes the obligation to pay premiums for pension insurance and contributions to the state employment policy,
- b) the working time of which is at least 80 % of the regular weekly working time,
- c) which has been agreed for an indefinite period or for a fixed term of more than 3 months, and
- d) which corresponds to the health of the natural person, and, if possible, his or her qualifications, skills, length of previous employment, accommodation possibilities and the traffic accessibility of the work.

For the sake of completeness we also provide the wording of Article 21 of ILO Convention No. 168:

1. *The benefit to which a protected person would have been entitled in the case of full unemployment may be refused, withdrawn, suspended or reduced, to the extent prescribed, when the person concerned refuses to accept suitable employment.*

2. *In assessing the suitability of employment, account shall be taken, in particular, under prescribed conditions and to an appropriate extent, of the age of unemployed persons, their length of service in their former occupation, their acquired experience, the length of their period of unemployment, the labour market situation, the impact of the employment in question on their personal and family situation and whether the employment is vacant as a direct result of a stoppage of work due to an on-going labour dispute.*

Based on these facts the Czech legislation is fully in line with the “suitable employment” criteria in terms of international standards of the ILO and therefore it cannot agree with the conclusions of the Committee based on the Manual on the concept of suitable employment in the context of unemployment, which was drawn up between 24 and 26 March 2009 by the Committee of Experts on Social Security during the Committee’s 4th session. This is because the Czech definition of a “suitable employment” excludes the situations defined in the Manual.

The withdrawal/ temporary suspension of unemployment benefit because of the rejection of an employment offer must be reviewable by the court in accordance with the legislative rules and procedures.

As the Czech Republic informed in the past, the final decision of the regional branch of the Labour Office concerning a removal from the register of job seekers on the basis that a job seeker, without serious reason, refuses to take up a suitable job is reviewable in court within the administrative judiciary [Sec 4 Subsec. 1 point. a) of Act No. 150/2002 Coll., the Administrative Procedure Code], after prior exhaustion of regular remedy measures in administrative proceedings.

Action for decision on removal from the register of job seekers, which results loss of unemployment benefit, may be appealed within two months from receipt of the decision of the administrative appeals body (Sec. 72 of the Administrative Procedure Code).

Work in prison

The Committee notes that convicted prisoners are obliged to work, however it appears - that a prisoner can be forced to work for the prison itself or for a public body. The Committee asks what types of work prisoner can be required to perform.

According to ILO Convention No. 29, the term “forced or compulsory work” shall not include works or services which are required from any person as a result of a conviction by a court decision, in case this work or service is performed under the supervision of a public authority.

A similar arrangement can be also found in the Charter of Fundamental Rights and Freedoms. Art. 9 of the Charter says that: “ (1) Nobody shall be subjected to forced work or services. (2) Paragraph 1 shall not apply to

a) work assigned in accordance with the law to persons in service of a term of imprisonment or the persons in an alternative way to imprisonment,”

In accordance with the principle of non-discrimination, all conditions for prisoners, including labour conditions, are regulated by laws, especially by Act No. 141/1961 Coll., stipulating Criminal Procedure (Criminal Procedure Code), Act No. 169/1999 Coll., regulating Service of a Term of Imprisonment, and the Labour Code that refer to other provisions governing other areas in question.

Prisoners’ work in the Czech Republic is not limited to work in the correctional facility or in a public body. Prisoners may be also employed in private companies, but only on the condition that they agree to such employment.

The selection and placement of convicts is decided on by an expert committee the members of which are, inter alia, a social worker, a psychologist, and a special education teacher. The committee is responsible for the proper selection and placing of convicts to workplaces that correspond to their skills, education, health classification, etc. The convicts who have the appropriate education and special authorisation are assigned to a workplace where they can use their expertise. Other convicts are assigned mainly to jobs that do not require special expertise.

Working conditions of prisoners are the same as the working conditions of other employees. Generally, working conditions, including working hours, are governed by the Labour Code.

Remuneration of convicts is governed by Government Regulation No. 365/1999 Coll., stipulating the amount and conditions of remuneration of convicts assigned to work during their Service of a Term of Imprisonment. It consists of a basic remuneration, bonuses for overtime, allowances, and job performance bonuses.

Prior to entering the job, the convicts with a job placement have to complete an initial training which includes generally applicable regulations on occupational health and safety, safety regulations that relate specifically to the job and the workplace, and fire protection regulations. The workplaces are pre-assessed in terms of occupational health and safety by the committee and an occupational safety specialist. Each profession has its technical papers and a list of protective tools and equipment. The convicts with a job placement are equipped with all the required protective tools and equipment prior their first entering the workplace. They have to acknowledge the receipt of the tools and equipment in writing. Convicts participate on addressing the issues related to occupational health and safety on their workplace by making comments and suggestions.

Act No. 169/1999 Coll., On Imprisonment says:

Section 28
Basic duties of convicts

(1) During his service of a term of imprisonment the convict is obliged to observe the established order and discipline, follow the instructions and orders of Prison Service staff, work when he is assigned to work and is not temporarily unable to work or is not medically unfit to work during the imprisonment, fulfil tasks resulting from the treatment program, handle gently the entrusted items, do not damage another's property, observe the principle of the equitable treatment of persons with whom he comes into contact, and observe the internal rules of the prison. Prisoners are also obliged to take precautions and observe separate legal regulations on occupational safety and health and fire protection.

Section 29
Employment and education of convicts

(1) The convict who was assigned to work is obliged to work if he is medically fit to it.

(2) In terms of employment and training of convicts, the prison provides

a) assigning work to prisoners according to their medical fitness and their professional knowledge and skills, including the capability to provide health services,

b) remuneration of convicts,

c) conditions for obtaining and improving of the convicts' qualifications and expanding their general knowledge.

Section 30
Assigning work to convicts

(1) Prisons create conditions for employment of convicts either as part of their operations, through own production or business activities, or via contracts with other entities.

(2) A contract between the prison and another entity on the basis of which the convicts are assigned to work lays down detailed conditions under which the convicts will work and sometimes also the training procedures aimed at the convicts' induction increasing of their job qualifications. The other entity has the same legislative obligations regarding creating conditions for occupational safety and health and compliance with fire and health regulations as they would have to their regular employees.

(3) The other entities referred to in paragraphs 1 and 2 provide prisons the agreed performance for the work of convicts.

(4) Employment of a convict by an entity other than the prison requires a prior written consent of the convict.

(5) *The convict may revoke the consent referred to in paragraph 4 by a written notice to the Prison Service. The effects of the withdrawal of consent occur on the last day of the calendar month immediately following the month in which the convict revoked their consent. The withdrawal of consent shall not be considered the convict's refusal to work.*

Section 33

Remuneration for work of convicts

(1) *Convicts are entitled to remuneration corresponding to the work done. The amount of the remuneration and the conditions for its provision is set by a Government regulation.*

(2) *During the convict's temporary incapacity to work the Prison Service pays him a compensation under the same conditions that apply to employers and employees in accordance with the Labour Code.*

(3) *The convict's remunerations are considered as income from employment for the purposes of deductions of taxes and contributions for pension savings, social security or health insurance. After deducting advance tax and insurance premiums from the convict's remuneration, the remaining amount may be subject to other deductions, such as alimony including the cost of an institutional child care or a protective care and the costs of the custodial sentence execution and other costs associated with the execution of the sentence. The scope and sequence of other deductions from the convict's labour remuneration is set by a decree of the Ministry of Justice. The decisive factors are the nutrition requirements of the convict's children and legitimate demands of the convict's victims.*

Section 34

Education of convicts

(1) *The convicts who have the necessary qualifications are usually allowed to get a primary or secondary education, or attend other forms of training that will allow them to acquire and improve their working qualifications.*

(2) *Under this Act, the convicts attending day-time studies are seen as convicts with a job placement.*

The Committee asks for information on measures taken by State Parties to ensure that employers give due consideration to workers' private lives in the organisation of work and that all interferences are prohibited and where necessary sanctioned.

The protection of individual privacy is enshrined in Sec. 86 et seq. of the Civil Code and in the Act regulating Personal Data Protection. A violation of the protection may be classified as a crime against the rights to privacy and secrecy in accordance with Sec. 180 et seq. of the Criminal Procedure Code.

Employees' right to privacy in the workplace is enshrined in Art. 7 para 1 of the Charter of Fundamental Rights and Freedoms. The protection of privacy rights of employees is enshrined in the Labour Code. Sec. 316 para 2 stipulates that if there is no good reason, the employer must not interfere with the privacy of their employees in the workplace and public areas of the employer by openly or covertly monitoring or eavesdropping employees, or by

recording their telephone calls or checking their e-mails or correspondence. The exception may be surveillance equipment intended for protection of life and health (banks, gas stations, nuclear power stations, and other dangerous workplaces). Employees must be informed in advance on any such measures.

The performance of the agreed work outside the workplace is not subject to the control of the employer and the employer does not disturb the privacy of the employee. The employee shall perform such work during working hours scheduled by the employee himself.

Violations of the right to privacy shall be sanctioned and employees may claim their right to privacy through civil actions.

The fundamental right to privacy in employee relations shall enjoy adequate protection (in compliance with the interpretation of the Committee).

The Committee recommends the Parties to pay attention to the issue of “home work” and work in family businesses; even though these are different phenomena, their common feature is that they can be the cause of a forced labour and exploitation. The two forms are addressed in the ILO Convention on Decent Work for home workers No. 189 of 2011. The Committee asks the Parties to provide information on laws and regulations adopted within the fight against these practices and measures (aimed at compliance supervision).

The Czech Republic has not ratified the ILO Convention No. 189. For this reason, it is not possible to provide information on laws and regulations adopted in response to measures related to compliance with the Convention.

The Committee asks whether the homes of private persons who employ domestic workers are subject to inspection visits. The Czech legal order, or the Labour Code, applies to all employees in an employment relationship. However, a work or help in a household belonging to another person is not considered a dependent work regulated by the Labour Code since it has no characteristics of dependent work (i.e. a work performed in a superior/subordinate relationship, on behalf of the employer, in accordance with the instructions of the employer, by the employee for a wage/salary/remuneration, at the expense and responsibility of the employer, during working hours, at the employer’s workplace or other agreed place), but it is typically an activity agreed on in a contract for the work done or an innominate contract or a trade operation falling within the regulation of the Trade Act or the Civil Code where the contracting parties can freely negotiate mutual rights and obligations (most often this is a home help - e.g. cleaning, window washing, ironing, gardening, masonry, or various forms of tuition to which the provider has a trade/other authorisation). In such cases, the state is not entitled to interfere in contractual relations or two private entities, nor enter private households. Such a procedure would be contrary to Art. 7 para 1 and Art. 12 of the Charter of Fundamental Rights and Freedoms. The Articles stipulate that:

Art. 7

“The inviolability of a person and his or her privacy is guaranteed. It may be limited only in cases specified by law.”

“Art. 12

A person’s home is inviolable. It is not allowed to enter it without the consent of the person living there. House search is admissible only for the purposes of criminal proceedings. It must be based on a written and substantiated order of a judge. House search methods are set by law. The rules of a democratic society allow other interventions in the inviolability of home

only if it is necessary for protection of human life or health, the rights and freedoms of others, or elimination of a serious threat to public security and order. All such interventions must be approved by law.”

The Committee further asks whether the Criminal Code effectively protects domestic workers in case of exploitation by employers and whether regulations offer protection against abuse, for example by a requirement that migrant workers recruited in one state for the performance of domestic work in another country received a job offer in writing, or an enforceable employment contract in this last State.

As stated above, the nature of home work has not characteristics of employment. Therefore, the model example provided by the Committee cannot occur.

In contrast, an employment relationship between an employee and an employer must be based on an employment contract or appointment (Sec. 33 of the Labour Code). The employment contract must contain the essential particulars, which include the type of work, place/places of work, and the date of commencement of the employment. It must be concluded in writing, otherwise it is considered void (Sec. 34 of the Labour Code).

Offences against personal liberty, e.g. human trafficking, deprivation/restriction of personal freedom, abduction, extortion, or oppression are enshrined in the Criminal Code - in Sec. 168 et seq.

The Committee asks whether foreign domestic workers have right to change their employer in case of abuse or whether they forfeit their right of residence if they leave their employer.

Answered above.

Persons running their own business or family business from home under the Trade Act do not fall under the legislation addressing dependent employment (labour relations) within the meaning of the Labour Code.

An employment relationship between the spouses or partners is expressly prohibited in the Labour Code.

Article 1, Paragraph 3

“With a view to ensuring the effective exercise of the right to work, the Contracting Parties undertake: to establish or maintain free employment services for all workers;”

In the period 2011- 2014, there were no changes in the public employment services.

The Committee notes that the previous report provided no information on the Public Employment Services (PES) which is the main thrust of this provision. The Committee therefore asks that the next report contains information (for the different years of the reference period) on:

- **The number of vacancies notified by the PES;**
- **The number of job placements made by the PES (and the placement rate, measures as a percentage of the vacancies notified);**
- **The placements made by the PES as a percentage of total hirings in the labour market.**

The Committee requests that the report specifies the rate of job placements mediated by the Labour Offices as a percentage of the total number of registered vacancies.

The data for the years 2011-2014:

Monthly averages	Vacancies registered by the Labour Office	Job seekers job placement - total	From col.2: job seekers posted by the Labour Office	Share of the job seekers posted by the Labour Office to all reg. vacancies (%) col. 3/col. 1	Share of the job seekers posted by the Labour Office to all successful job seekers (%) col. 3/col. 2
	1	2	3	4	5
2011	36,493	38,299	4,904	13.4	12.8
2012	39,878	27,815	2,382	6.0	8.6
2013	38,964	24,116	2,678	6.9	11.1
2014	48,682	38,622	7,071	14.5	18.3

The Committee also requests information on the average period of time needed to fill a vacancy. This figure is not included in the statistics. The MLSA and the Labour Office monitor the number of vacancies in terms of length of their registration.

To December 31	Registered vacancies in total	vacant (in%)			
		less than 3 months	3-6 months	6-12 months	more than 12 months
2011	35,784	45.4	17.3	19.6	17.8
2012	34,893	64.4	18.2	11.6	5.8
2014	58,739	54.6	22.9	15.7	6.7

* The data for 2013 are not available due to a change in the information system.

Last year (and also in previous years) the departments of mediation offered both individual and group counselling, based on an assessment of needs, capabilities, and opportunities of individual Labour Office's clients. The activation of clients the aim of which was to quickly integrate them in the open labour market and to increase their motivation to look for work and start work was performed through individual counselling. The counselling consisted of occupational-advisory interviews aimed at finding a suitable job.

The group counselling services consisted of regular information meetings intended particularly for newly registered job seekers on which the participants received information on basic rights and obligations of job seekers and particularly on the services provided by the Labour Office.

The services also included group sessions aimed at particular employers to which were invited job seekers who were found eligible in terms of their expertise and experience. This ensured a functional matching when the Labour Office offers a vacancy to candidates with the necessary qualifications or provides retraining to job seekers which is in accordance with the needs of employers. The active cooperation with employers also took place through information meetings where employers presented their companies to job seekers and also offered vacant positions.

These activities helped to establish personal contacts with employers and the transmission of necessary information about the services provided by the Labour Office. This enabled the Labour Office to quickly and efficiently respond to employers' needs.

	2013	2014
Job seekers removed from the register	562,983	698,278
Placed job seekers	289,390 (51 %)	463,465 (66 %)
Job seekers placed by the Labour Office	32,141 (11.1%)	84,856 (18.3 %)

The above statistics shows that in 2014 the number of job seekers who were removed from the register was by 135,295 persons higher than in the previous year and that the number of placed job seekers rose by 15 % during the same period.

In the international comparison, the Czech Republic unemployment rate figure has been below the European average values for a long time. In July 2015, it had one of the lowest unemployment rates (6.3 %).

In December 2014, the unemployment rate in the Czech Republic (ILO methodology) reached 5.7 %, which was the fourth lowest value within the EU 28 (the average in the EU 28 was 9.7 %).

The Committee again asks what is the number of counsellors in the PES involved in placement services, and the ratio of placement staff to registered job seekers. The Committee is of the view that the Government has not provided any information showing that the employment services are run efficiently.

By the end of each year, there were the following numbers of the Labour Office employees involved in employment mediation and counselling (without further specification):

2011 - 2,487 persons
2012 - 2,466 persons
2013 - 2,674 persons
2014 - 2,625 persons

The numbers of registered job seekers in these years were as follows (the numbers serve for calculation of the ratio of public service employees engaged in employment placement to the number of registered job seekers):

2011 - 508,451 job seekers
2012 - 545,311 job seekers
2013 - 596,833 job seekers
2014 - 541,914 job seekers

In the last two years there was a significant increase in the number of Labour Office employees. This had a positive impact on improving the quality and efficiency of the services provided and on reducing unemployment. The trend of the increasing number of Labour Office employees continued in 2014.

Currently, there is a project which aims to strengthen the comprehensiveness and quality of services provided by the Labour Office in the sphere of job creation. The project objective shall be achieved especially by hiring expert personnel to the Labour Office departments of labour market and monitoring. This shall apply to all districts of the Czech Republic. The expert staff would then mediate the flow of information between employers and the Labour Office, monitor the needs of employers in the labour market, actively seek job vacancies, and help with creation of new jobs through targeted offers using the AEP instruments. These activities serve for obtaining up-to-date and uniform basis for analysing regional labour markets (monitoring of employers, analyses of job vacancies, employment structure analyses, agency employments, foreign employments, etc.).

In the international comparison, the Czech Republic unemployment rate figure has been below the European average values for a long time. In June, the Czech Republic had the second lowest unemployment rate after Germany. The Czech Republic believes that this result is sufficient to show that employment services are run efficiently.

**ARTICLE 15: THE RIGHT OF PHYSICALLY OR MENTALLY DISABLED PERSONS TO
VOCATIONAL TRAINING, REHABILITATION AND SOCIAL RESETTLEMENT**

Article 15, Paragraph 2

“With a view to ensuring the effective exercise of the right of the physically or mentally disabled to vocational training, rehabilitation and resettlement, the Contracting Parties undertake: to take adequate measures for the placing of disabled persons in employment, such as specialised placing services, facilities for sheltered employment and measures to encourage employers to admit disabled persons to employment.”

Additional questions of the Committee:

The Committee reiterates that in order to assess it must be systematically provided with figures, such as the total number of disabled persons and persons with disabilities in the working age; the total number of persons with disabilities employed on the ordinary market as well as that of those employed in sheltered employment; the rate of progression of persons with disabilities from sheltered employment to the ordinary labour market. The Committee asks the report to provide, in particular clear and unambiguous data showing the number of persons with disabilities employed in sheltered jobs and in the open labour market in comparison with the total number of persons with disabilities in the working age.

Furthermore, the Committee notes that the scheme for employing persons with disabilities has been substantially reformed as of January 2012; therefore the Committee requests that the report describes the system in detail. The Committee also reiterates its questions concerning sheltered employment facilities, in particular whether they help their beneficiaries to enter the open labour market.

The Committee recalls that the State must ensure equal and effective access to employment to persons with disabilities. If the Government will not provide adequate information and relevant statistical data showing that such effective access has been ensured in practice, there will be nothing to establish that the situation in the Czech Republic is in compliance with the provisions of Article 15 para 2 of the Charter.

The Czech Republic does not have statistical data which show the total number of persons with disabilities (“PWD”) and the number of employed PWD. The necessary data is collected only through the Labour Force Survey conducted by the Czech Statistical Office. However, this is not a statistics but a questionnaire survey conducted in households.

The last survey that was focused on this issue, which was conducted in 2013, showed that there were 1,077,673 PWD in the Czech Republic, i.e. about 10 % of the population. Out of this number 178,695 persons were employees.

In 2014 34,821 PWD worked in a sheltered labour market (this number corresponds to the number of persons receiving subsidies paid by employers according to Sec. 78 of the EA - see below).

PWD employment support system

The support for the employment of PWD in the Czech Republic depends on whether an employee belonging to the target group is employed by an employer the majority of personnel

are PWD (the “sheltered labour market”) or the personnel of whom consists of PWD by less than 50 % (“free labour market”). Generally, it can be said that the support in the Czech Republic is aimed mainly at the sheltered labour market employers (with more than 50 % personnel consisting of PWD).

a) Support intended only for employers with more than 50% of staff consisting of PWDs (sheltered labour market):

Subsidy provided under Sec. 78 EA

Under this instrument, the Labour Office provides employers’ payroll subsidy amounting to 75 % of the labour costs expended on employees with disabilities (a maximum of CZK 8,000 per month, in the case of physically disadvantaged persons, the maximum amount is CZK 5,000 per month).

This instrument also includes a subsidy to the running costs (i.e. the increased administrative costs, transportation costs, employee assistance, or adaptation to the workplace) in the amount of CZK 2,000 per month and a PWD (CZK 1,000 CZK per physically disadvantaged person).

In total, the subsidy amounts to CZK 10,000 per month for a PWD and CZK 6,000 for a physically disadvantaged person. When fulfilling the conditions stipulated by law, there is an automatic entitlement to the subsidy.

Mandatory share of PWD employees in accordance with Sec. 81 of the Employment Act

All Czech employers who employ more than 25 persons are obliged to employ PWD in a mandatory proportion of these persons to the total number of employees of the employer. The mandatory proportion is 4 %.

Employers who do not employ PWDs can fulfil the mandatory proportion by purchasing products or services from employers whose staff consist of more than 50 % of PWDs. Therefore, in this case it is an indirect support for employers with more than 50 % of PWDs.

b) The support provided regardless of the proportion of employees with disabilities (free labour market):

Subsidy to creation of a sheltered job in accordance with Sec. 75 of the EA

This instrument may be used for providing support to employers through subsidy for the purchase of equipment necessary for creation of new jobs for PWD. The maximum amount of the subsidy depends on the number of created sheltered jobs and the degree of disability of the employed persons. It may reach up to fourteen times the average wage in the national economy (i.e. the contribution currently may be up to CZK 352,506).

Subsidy to partial compensation of operating costs of a sheltered job in accordance with Sec. 76 of the EA

The Labour Office can also provide the employer a subsidy to the operation of the sheltered job. The annual amount of the subsidy may reach up to CZK 48,000 per one sheltered job. The subsidy shall cover the increased administrative costs, transportation costs, employment assistance, and adaptation of the workplace.

Unlike the subsidy under Sec. 78 of the EA, there is no automatic entitlement to this assistance. The Labour Office decides on the provision of the subsidy on the basis of an

assessment of employment possibilities of a specific person and the situation on the labour market in the region.

Income tax reduction by the amount of CZK 18,000 per each PWD employee and by the amount of CZK 60,000 per each employee with severe disability.

In the period 2012-2014, the amounts spent and the numbers of PWDs supported within the above instrument were as follows:

			2012	2013	2014
Employers with more than 50% PWD employees	Contribution under Sec. 78 EA	Paid	CZK 3.47 bil.	CZK 3.67 bil.	CZK 4 bil.
		Supported PWDs	39,333	28,224	34,821
	Alternative performance under Sec. 81 EA	Purchased from employers with more than 50% PWD employees within the mandatory share	CZK 9.5 bil.	CZK 10.3 bil.	*
The support provided regardless of the proportion of PWD employees	Contribution to establishment of SJs	Paid	CZK 38.5 mil.	CZK 46.5 mil.	CZK 82 mil.
		Supported PWDs	817	768	1,132
	Contribution to operation of SJs	Paid	CZK 80.3 mil.**	CZK 3.6 mil.	CZK 3.7 mil.
		Supported PWDs	1,514**	92	125

* The data on the mandatory share for 2014 are not yet available.

** The significant decrease in 2013 and 2014 is related to the amendment of the EA from 2012 which categorised the operation contribution provided to the employers the staff of whom consists by more than 50% of PWDs under Sec. 78 of the EA.

c) Vocational rehabilitation:

Vocational rehabilitation is implemented by the Labour Office in accordance with Act No. 435/2004 Coll., The Employment Act. From the legislative point of view, vocational rehabilitation can be considered the most comprehensive and sophisticated area of rehabilitation. Vocational rehabilitation is a measure of the active employment policy. Its purpose is to balance the opportunities of persons with disabilities in the labour market. It represents part of the complex of activities and measures the aim of which is a full integration of these persons. It is a “continuous action aimed at obtaining and maintaining suitable employment for persons with disabilities” provided by the Labour Office on the basis of a PWD’s application.

Applicant who filed the application for vocational rehabilitation is invited to participate in creation of the individual plan for vocational rehabilitation (hereinafter referred to as the “IPVR”) which is actually an implementation timetable of the agreed on procedure leading to future employment. The assessment of suitability of a particular form of vocational rehabilitation for a specific person with a disability is performed by expert working group of the Labour Office. The expert working groups evaluate the documented medical condition of

the job seeker, retained working abilities and recommendations (e.g. from ergodiagnostic examinations, etc.) and judge the forms of vocational rehabilitation proposed in the IPVR, which is drawn up by a responsible employee – the advisor for vocational rehabilitation. The members of the expert working group are not only employees of the Labour Office, it consists of a wider range of professions. The members of the expert working group are, for example, doctors, representatives of social agencies, representatives of NGOs dealing with persons with disabilities, representatives of employers employing more than 50 % of people with disabilities.

The vocational rehabilitation proposed in the approved draft IPVR is fully paid by the Labour Office, mainly from the funds intended for the AEP.

The Labour Office expenditures on vocational rehabilitation for persons with disabilities amounted to CZK 3,116,000 in 2011, CZK 2,286,000 in 2012, CZK 2,713,000 in 2013, and CZK 3,296,000 in 2014.

All the above measures are aimed at occupational integration of persons with disabilities with the ultimate aim of placing these persons on the open labour market.

The Committee notes from another source that employers are obliged to ensure reasonable accommodation to persons with disabilities at their own costs and that there is no provision for financial support expressly dedicated to accommodation costs. The Committee asks the Government to confirm whether this is indeed the case. The Committee requests that the next report contains information on application of the reasonable accommodation obligation in practice, in particular how many employers fulfil this obligation and how many of them are discharged from on the ground that it constituted an inadequate (financial) burden.

Obligations of employers regarding employment of persons with disabilities and creation of proper working conditions are set in Sec. 67-84 of the EA.

The Labour Code in its Sec. 103 Subsec. 1 stipulates that employers must not let employees to perform prohibited work and work the demands of which would be inconsistent with a particular employee's abilities and fitness. In its paragraph 5 of the same Section Labour Code defines the specific employers' obligations towards persons with disabilities. These include, among other things, implementation of technical and organisational measures, including the necessary adjustments of working conditions and working places, establishment of sheltered jobs and workshops, training of these employees and improving their skills through the performance of their regular employment. All these measures shall be implemented at the employers' own expense.

The Labour Code does not allow employers to renounce this obligation on the grounds that the necessary arrangements would mean an inadequate (financial) burden for them, because if the demands of the job without the necessary technical and organisational measures did not match the abilities and the medical fitness of the employee, the employee could not perform this job.

Therefore, the employer either adjust the workplace at their own expense (with possibility of drawing the above mentioned contributions) so that the PWD employee could perform the job, or they cannot employ persons with disabilities. In this case they must purchase products

or services from employers employing PWD or pay the corresponding amount to the state budget. They may also use a combination of the three options.

As mentioned above, Czech employers may draw contribution to creation of a sheltered job in accordance with Sec. 75 of the EA. This instrument may be used for providing support to employers through contributions for the purchase of equipment necessary for creation of new jobs for PWDs. The maximum amount of the contribution depends on the number of created sheltered jobs and the degree of disability of the employed persons. It may reach up to fourteen times the average wage in the national economy (i.e. the contribution may be up to CZK 352,506).

Furthermore, employers may be also entitled to a contribution to adjustment of a workplace (see above) as a part of the subsidy to partially cover the operating costs of a sheltered workplace in accordance with Sec. 76 of the EA.

The data on persons supported by these instruments are also provided above.

The Committee notes from same source, citing a governmental report on the state of human rights 2010, that the high unemployment of persons with disabilities and low job opportunities create an environment in which persons with disabilities are object to exploitation and are forced, for example, to hand over part of their wages to employers as a form of “repaid loan, contribution, subscription etc.” The Committee would like to receive the Government’s comments on this.

It is true that such incidents occurred before 2012. The undesirable practices of employers related to setting an entitlement to subsidy provided under Sec. 78 of the EA (see above) which was provided to the labour costs that were already incurred by the employer. Thus, the employer incurs labour costs and the Labour Office then reimburses the employer with a part of these costs. The misuse of the subsidy consisted in the fact that the employer kept part of the subsidy to himself because he withheld a part of the employee’s wage.

These malpractices were addressed by the EA amendment from 2012. Since that time, the contribution is provided as a reduction of the real labour costs in the amount corresponding to:

- a) the wage in kind,
- b) wage or salary deductions designed to satisfy the performance of the employer, except the deductions made to cover damage for which the employee is responsible, or the employee's contribution to corporate catering,
- c) wage or salary deductions designed to meet the employee’s liabilities, if the wage deduction is in contradiction to good morals, or
- d) wage compensation provided to employees for obstacles at work that are caused by the employer.

Thus, the system misuse mentioned by the Committee cannot occur now.

The forms of vocational rehabilitation included in the draft individual plan that are recommended for approval by the expert group shall be paid in full by the Labour Office. The payment shall be done from the funds intended for the AEP or from the funds for financing projects of the relevant measures of the Operational Programme Human Resources and Employment.

Selected statistical data

Fulfilment of the mandatory share of PWD employees

In 2013, (figures for 2014 are not yet available) the mandatory share of PWD employees was fulfilled by 6.14 %, of which:

- 3.4 % represented employment of persons with disabilities,
- 2.29 % were purchases of products and services from employers specialising in employing persons with disabilities,
- 0.45 % were levies to the state budget.

Statistics of unemployment of persons with disabilities (PWD)

To December 31	2011	2012	2013	2014
Job seekers	508,451	545,311	596,833	541,914
Of which PWDs	63,092	62,038	62,789	61,146
Share of PWDs	12.4	11.4	10.5	11.3
Job vacancies for PWDs	2,628	2,485	4,471	5,312
Number of PWDs/1 vacancy	24.0	25.0	14.0	11.5

Part of the AEP instruments are also specialised tools to support the employment of persons with disabilities (PWD), i.e. sheltered jobs and a subsidy to partially cover the operating costs of a sheltered workplace. These are subsidy to creation of new jobs for persons with disabilities² and subsidy to cover operational costs of employers of PWDs³. Employers who provide vocational training for persons with disabilities may ask the Labour Office for a reimbursement of the cost of this vocational training. In the case of AEP, these are discretionary subsidies that are provided by Labour Office on the basis of an assessment of the particular situation, i.e. in the case of sheltered jobs the assessment includes the overall economic situation of the applicant, the applicant's business plan, whether the applicant draws other subsidies or grants, the expected number of employed persons with disabilities, etc.

On the basis of these facts, the Labour Office decides on granting or withholding the subsidies. We cannot say that these tools for persons with disabilities were focused more on women or men. However, the Labour Force Survey conducted by the Czech Statistical Office in 2013 showed that there were 101,482 employed men and 77,214 employed women with disabilities.

Furthermore, the Labour Office provides a subsidy to the labour costs of employers who have more than 75 % PWD employees. The subsidy is paid on a monthly basis in the amount corresponding to the actually incurred labour costs per a PWD employee, including social security premiums and the state employment policy contribution and premiums for public health insurance which the employer has deducted from the assessment base of this employee. The maximum is CZK 8,000. In case of a physically disadvantaged person, the maximum amount of the subsidy is CZK 5,000.

² The subsidy to creation of a sheltered workplace for a disabled person may amount to a maximum of fourteen times the average national wage in the first to the third quarter of the previous calendar year.

³ The subsidy to partially cover the operating costs of a sheltered workplace is provided to cover transport costs, job assistance, adaptation of the workplace, and the increased administrative costs.

After 12 months it is possible to increase the subsidy by other proven transport costs of employees, employment assistance, or the costs of the workplace adaptation. The maximum increase is CZK 2,000 per month for a single person with a disability and CZK 1,000 for a physically disadvantaged person.

In the third quarter of 2014 (data for the fourth quarter are not available yet), a total of 36,147 persons and 2,808 employers were granted the subsidy.

Those subsidies are granted regardless of the form of employment (work performed in a workplace, teleworking, work performed from home, etc.). This leads to promotion of innovative forms of employment of PWDs.

The above instruments aim at inclusion of PWDs to a “sheltered labour market” (they are employed by employers specialising in this group of people, or the newly created jobs are temporarily intended for persons with disabilities only).

The inclusion of PWDs in the “open labour market” is supported by financial subsidies provided to employers for the creation of jobs and subsidies for labour cost reimbursements.

Another tool is the mandatory share of PWD employees. In 2014, this 55 % of this obligation were fulfilled by direct employment of persons with disabilities.

Employers are also encouraged to employ persons with disabilities in the open labour market through rebates on income tax. Each employer who employs persons with disabilities may use a tax rebate in the amount of CZK 18,000 for each PWD employee (level I or II disability) and CZK 60,000 for each employee with a more severe disability (level III disability).

AEP instruments emphasise the support of employment of persons with severe disabilities. In the case of employment of a person with a severe disability, the employer is granted a higher subsidy for creation of sheltered jobs. The instruments called “Subsidy to support the employment of persons with disabilities” and “Mandatory share of employment of people with disabilities” are linked to the average number of persons with disabilities and to the share of PWD employees of the given employer (it must be at least 50 %). For this purpose, every person with a severe disability is counted 3 times.

In the previous period the financial performances were provided by the funds intended for AEP and the funds from other sources - from funds for financing projects of the relevant measures of the Operational Programme Human Resources and Employment.

The total costs of promotion of employment of PWDs (apart from subsidies to support the employment of PWDs) in 2014 reached the amount of CZK 88,866,349 (grants to the creation of sheltered jobs, sheltered workshops, contribution to partially cover the operating costs of sheltered jobs, occupational rehabilitation of PWDs). The paid subsidies to support the employment of people with disabilities reached the total amount of CZK 4,018,724,213. The costs of the Labour Office related to providing vocational rehabilitation of persons with disabilities in 2014 amounted to CZK 3,296,251.

Compared to other citizens, persons with disabilities have easier access to AEP instruments. The support within sheltered jobs does not require that the PWD was a registered job seeker. The access to other employment services is the same for PWDs and other citizens.

	2011	2012	2013	2014
The number of persons with disabilities supported in sheltered jobs (SJ)	641	628	768	1,238
The number of persons with disabilities supported by subsidies to operation of the SJ*	14,620	1,514	92	125

* The decrease which started in 2012 is related to the amendment of the Employment Act, which shifted the subsidy to the operation for employers with more than 50 % of PWD employees within the category of employment promotion of persons with disabilities.

**ARTICLE 18: THE RIGHT TO ENGAGE IN A GAINFUL OCCUPATION IN THE TERRITORY OF
OTHER CONTRACTING PARTIES**

Art. 18, para. 4

“With a view to ensuring the effective exercise of the right to engage in gainful occupation in the territory of any other Contracting Party, the Contracting Parties undertakes: the right of their nationals to engage in a gainful occupation in the territories of the other Contracting Parties.”

There were no changes to the legislation during the reference period.

Article 1

The right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

1. With a view to ensuring the effective exercise of the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex, the Parties undertake to recognise that right and to take appropriate measures to ensure or promote its application in the following fields:

- a) access to employment, protection against dismissal and occupational resettlement;*
- b) vocational guidance, training, retraining, and rehabilitation;*
- c) terms of employment and working conditions, including remuneration;*
- d) career development including promotions.*

2. Provisions concerning the protection of women, particularly as regards pregnancy, confinement, and the post-natal period, shall not be deemed to be discrimination as referred to in paragraph 1 of this Article.

3. Paragraph 1 of this Article shall not prevent the adoption of specific measures aimed at removing de facto inequalities.

4. Occupational activities, which, by reason of their nature or the context in which they are carried out can be entrusted only to persons of a particular sex may be excluded from the scope of this Article or some of its provisions.

The legal framework to ensure equal opportunities and equal treatment in matters of employment and occupation without discrimination on grounds of sex is consistent with the legislation governing the general prohibition of discrimination, as described above, since it is one of the characteristics of discrimination.

In its Conclusions The European Committee of Social Rights asks the following questions concerning Article 1 of the Additional Protocol:

The Committee recalls that the previous conclusion found inconsistencies with Article 1 of the Protocol and criticised the Anti-Discrimination Act for allowing comparisons of remuneration for the purpose of determination of equal work of equal value performed for a single employer. According to the information provided in the report, this situation has not changed. Therefore, the Committee noted that in this regard the situation is still not in conformity with the Charter Act from 1961.

The Committee asks whether and under what conditions the legislation allows comparisons of wages even beyond the form or company in the cases concerning equal pay.

The Czech legislation guarantees employees the right to remuneration for work and the right to fair remuneration (Art. 28 of the Charter of Fundamental Rights and Freedoms, the

“Charter”) and thus, together with Art. 3 para 1 of the Charter, it sets the constitutional basis for elimination of discrimination in remuneration for dependent work. In relation to the Charter, transposed EU legislation and international treaties which are part of the legal order, the Anti-discrimination Act defines the right to equality by an exhaustive enumeration of impermissible grounds of discrimination and legal protection against discrimination.

In relation to this, the Labour Code in its Sec. 1a adds fair remuneration, equal treatment of employees, and the prohibition of discrimination. All these are considered the basic principles of labour relations. The principle of equal treatment of employees and the prohibition of discrimination is, moreover, one of the basic principles expressing the values protected by public policy (Sec. 1a Subsec. 2 of the Labour Code). In relation to Sec. 588 of the Civil Code, the definition of the “public order” is relevant to assessing the possible nullity of a legal act (even without a petition, the court will consider the nullity of the legal act that is clearly contrary to morality or is contrary to law and apparently disturbs public order). According to the Labour Code, a fair remuneration is only a remuneration provided on the basis of equal treatment of employees (Sec. 16 Subsec. 1 of the Labour Code).

The Labour Code guarantees the right to equal pay for equal work or work of equal value to all employees of the same employer, regardless of whether they perform their work in an employment relationship or on the basis of agreements on work performed outside employment.

The same work or work of an equal value means the work of equal or comparable complexity and difficulty and involving the same responsibility. It is also performed in the same or comparable working conditions, at the same or comparable work performance, and with the same work results. Therefore, we can infer that if different employees do not perform work that is equal in all comparative aspects, the employer cannot pay the same wage or remuneration for this work because that would discriminate the employees who, according to the statutory criteria, performs a work of a higher value.

In accordance with the established case law of the EU Court of Justice, assessments of a work’s equality or comparability must take into account a variety of factors - e.g. the nature of the work, training and specific working conditions, etc.

The Czech Republic opposes the application of the principle of equal pay in a broader sense than regarding a single employer. It is of the view that within the labour market where the other conditions are met labour costs should be determined by the market principles of supply and demand and not by legislation. There are significant differences in living standards between regions of the Czech Republic and often within individual regions. The differences then reflect in different level of earnings for the same or similar work caused by the principle of supply and demand.

From the regional perspective and the perspective of individual sectors it is hard to define where the principle may still be applied and where not. In case of application to the whole country, how could be met the Committee requirement of equal pay when in some countries regions may apply different tax rates and other income-related charges? **Equality in gross wages then may not constitute equality in disposable income, i.e. the income after taxes.** Furthermore, such an overall application of remuneration rules would be inconsistent with the freedom of contract and the freedom of entrepreneurship and the labour market participants could claim this infringement in court.

Another question is how and by whom should be defined the reference wage for different types of work? The Czech Republic is of the view that this would be an extremely difficult process with a high probability of an erroneous result.

The Committee mentions three cases in which it considers that the national legislation should require wage comparisons beyond a single employer. This requirement cannot be accepted due to the fact that the data on wages/salaries are personal data and as such are subject to constitutional protection under Article 10 of the Charter, i.e. the protection from unauthorised disclosure. Employers are therefore not entitled to disclose data on wages/salaries of their employees. An exception is the obligation to provide information on structured average wage/salary components for statistical purposes, in particular for the information system of salaries administered by the Ministry of Finance. Employers also do not have (and cannot have) the possibility to collect information about specific earnings of employees of other employers as they do not have access to the workplaces, nor detailed knowledge of specific conditions of work and the results of work of other employers' employees, i.e. information that is necessary for application of the comparative criteria set out in Sec. 110 of the Labour Code through which the compliance with the principle of "equal pay for equal work and work of equal value" could be assessed. Thus it is not only impracticable to observe the above principle between different employers, but it wouldn't be even fair to require this of employers.

For these reasons it is not even possible to compare employees of different Czech employers which have the same higher-degree collective agreement (second situation) or employers associated within a holding or conglomerate (third situation). Firstly it is not a single-source financing and secondly identical conditions in the collective agreement do not automatically lead to the same economic results and consequently to the same earnings. Collective agreements always determine salary/wage conditions regardless of gender. Given that equal treatment is regulated by law and the collective agreements address the above-standard provisions only, it is not necessary to repeat the provisions laid down by law in the collective agreements again. Comparison could be made between employees of employers who set the emoluments under the same regulations and the funding of salaries can be assigned to a single source (first situation). These are employees whose employer is the State (Czech Republic), but the labour relations and the rights and obligations related to labour relations are administered by various government departments employ these employees on behalf of the State. However, the practical application of the principle of equal pay for equal work and work of equal value is very difficult even regarding state employees.

The feasibility of such a principle is dubious also because it can be achieved either by reducing the remuneration that exceeds the threshold set by the reference wage, or by setting the reference wage at the level of the highest wages in the entire sector. The first scenario does not definitely bring benefits to employees who have had higher wages because they mostly live in cities and regions with higher living costs. Regarding matching the lower wages to the level of the highest wages in these sectors, this would very likely lead to an inflationary pressure which would then increase the cost of living and the wage increase would not lead to an increase in available funds of employees in areas with lower costs of living. Furthermore, it would reduce the disposable income of employees living in areas with high living costs (their wages would not rise and inflation would increase their cost of living). Thus the benefits would be either negative or negligible here as well.

The Czech Republic communicated information about the conditions under which it exercises the right of workers to equal wages, salary or remuneration for equal work or work of equal value (Sec. 110 of the Labour Code) in the Opinion on the Conclusions of the European Committee of Social Rights to the 11th Report on the Application of the European Social Charter. In the same way the Czech Republic explained its long-term view that the principle of equal pay for equal work and work of equal value between employees of different employers cannot be applied in the form required by the European Committee of Social Rights.

In this regard, we consider it appropriate to re-emphasize the economic laws that are generally applicable and long established in all economies, and which we believe may be appropriate and desirable to significantly regulate by the intervention of the State.

Wage, as the price of labour, is closely related to the cost of living and the labour market situation (the ratio between supply and demand for labour) in the various locations. The situation on the labour market then stimulates the movement of labour to areas with higher earnings. It is also quite common that capital (investments) is transferred to locations with lower costs (including wages). The result is the creation of new jobs and development and increased standard of living in the given region. In terms of economic laws, this movement should not be limited. Moreover, as we already mentioned, the price of labour (wages) depends also at the cost of living which may regionally differ. Therefore, it is not possible to automatically rely solely on a comparison of nominal wages for the same work or work of equal value.

In light of the above, we ask the Committee to describe a mechanism that would satisfy their interpretation of 1961 ESC, particularly in terms of the macroeconomic impact and effect of the economic function of the wage.

Ensuring equality between women and men in pay was the subject of detailed information provided in the 11th Report on the Application of the European Social Charter. Although the provisions ensuring equality between men and women in the national legislation may be considered as adequate, including the regulation of enforcement, the statistical surveys show that there are remaining differences in remuneration for work between women and men. The difference between the average employment income of men and women is influenced by many factors, both the objective and the latent ones - the latent factor are related to the overall development of society (habits, norms) and therefore their removal is a long-term task. The economic analysis of wage differences may bring only a partial explanation based on certain objective criteria (time worked, complexity and difficulty of work, responsibility, experience acquired), but it does not cover other variables that influence wages of women and men.

Other steps that would lead to elimination of the remuneration differences between women and men should rather consist in a consistent application and enforcement of the existing anti-discrimination provisions and facilitating women's access to work positions comparable to men.

The following overview shows the development of the average gross monthly wage in the Czech Republic for the period from 1 January 2011 to 31 December 2014, both in the total amount and broken down to men and women.

	<u>total</u>	<u>Men</u>	<u>women</u>
<u>2011</u>	<u>25,645</u>	<u>28,234</u>	<u>22,389</u>
<u>2012</u>	<u>26,133</u>	<u>28,916</u>	<u>22,683</u>
<u>2013</u>	<u>26,444</u>	<u>29,250</u>	<u>22,955</u>
<u>2014</u>	<u>27,002</u>	<u>29,858</u>	<u>23,421</u>

The data was taken from publications of the Czech Statistical Office ("CSO") "Wage Structure of Employees" for each year. Statistics on wages published in these publications were calculated from structural statistics on wages of employees (collected in a sample survey). The results therefore differ from the data on average wage obtained from the Corporate Reporting CSO (this does not provide results broken down by, for example, sex, age, or education).

The ratio of the average gross monthly wage of men and women (in CZK) in the years 2011 - 2014

The above data shows that in 2011, the ratio of the average gross monthly wage of women relative to the average gross monthly wage of men was 79.3 %; in 2012 the ratio declined by 0.9 percentage points to 78.4 %; in 2013 it slightly increased by 0.1 % to 78.5 %; and in 2014 it decreased again by 0.1 percentage point to 78.4 %.

The Committee asks that the next report contains updated information on positive measures to promote the employment of women and the measures taken to reduce the wage gap between men and women.

(remuneration see above)

The Committee would welcome to be regularly informed about the implementation of all positive steps and measures to promote gender equality in employment.

In the Czech Republic, women in the labour market have been given a special attention for a long time. There are a number of measures to promote women's employment including:

- Short-time work promotion - since 2009 there has been a gradual increase in the number of people working part-time. While for men this was a temporary condition caused by the economic crisis, in the case of women the increase has been permanent.
- Securing appropriate conditions for the reconciliation of family and working life by supporting pre-school child care services in the form of nursery schools established by a public bodies or employers or other alternative forms of child care. At the end of 2014, the Parliament adopted Act No. 247/2014 Coll., regulating provision of childcare services in the children's group the aim of which is to create a complementary child care institute.
- Support activities that will enable parent, even during their parental leave, to continue with their professional development and maintain contact with the labour market, retraining and additional training for job-seeker parents on parental leave the aim of which is to help parents to keep their skills and facilitate their return to the labour market.
- Support for changing parents on parental leave which will make it easier for women to maintain contact with the labour market.

- Support of self-employment of women so that they would be able to combine their work life and the care for their children.
- Support for flexible working time (e.g. shorter-time jobs, flexible working hours) and alternative forms of organisation of work (e.g. home office or a combination of work at the workplace and work from home).

The measures aimed at promoting gender equality in employment include also consultancy activities aimed at providing awareness, education and counselling regarding equal opportunities for men and women for the purpose of removing gender stereotypes and gender discrimination.

The aim of the measures falling within the priority “Promoting gender equality in the labour market” is an employment rate of women aged 20-64 at 65 %, which is one of the sub-objectives of the national employment policy. This should positively reflect in the reconciliation of family and working life, in a positive impact on women’s career development, and in elimination of the difference between men and women in the labour market.