



**The Professional Trade Union for Prison
Correctional, Public and Private Mental Health
Trust Services Providers and Immigration Services**

National Chair: Mark Fairhurst
General Secretary: Steve Gillan

Headquarters:
Cronin House
245 Church Street
Edmonton
London N9 9HW
t. 020 8803 0255
f. 020 8803 1761
e. general@poauk.org.uk
w. www.poauk.org.uk

North Regional Office
1 Linden House
Sardinia Street
Leeds
LS10 1BH

Northern Ireland
Castell House
116 Ballywalter Road
Millisle Co Down
BT22 2HS

Scotland
Bowden House
Cooperage Way, Alloa
Clackmannanshire
Fk10 3LP

POA Circular 026/2026

**For information: England & Wales, Northern Ireland, Scotland, Special Hospitals,
Private Sector, Immigration Services**

25th March 2026

Dear Colleagues

SECTION 127 CJA 1994, THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS AND THE EUROPEAN COURT OF HUMAN RIGHTS.

The European Committee of Social Rights (ECSR) monitors compliance with the European Social Charter, protecting social and economic human rights in Council of Europe member states. Composed of 15 independent experts, it reviews national reports and decides on collective complaints to ensure national laws adhere to the Charter's principles.

The European Committee of Social Rights have recently published their recommendations and have found the United Kingdom to be in breach of its obligations under the European Social Charter in relation to the rights of Prison Officers to have the right to strike. This excludes Scotland where the Scottish Government have restored the rights to strike for the POA.

Usually, if a state is found to be in non-conformity, the Committee publishes its "conclusions" or "decisions." If no action is taken, the Council of Europe's Committee of Ministers may issue a recommendation asking the state to change its practices.

Although, these ECSR recommendations are non-binding conclusions regarding Charter compliance, they still carry significant weight. The European Court of Human Rights Judgements are binding on states. As many of you will be aware the POA currently have a live case with the ECHR and it is hoped that this ECSR recommendation will have a big bearing on our case.

In the meantime, I have written to the Deputy Prime Minister and Secretary of State for Justice, David Lammy, urging him to avoid court action and to engage with this Union regarding this very important issue.

I attach my letter to Mr Lammy and the ECSR recommendations for your information.

I will keep you informed of any developments.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steve Gillan', with a small horizontal line at the end.

STEVE GILLAN
General Secretary

ENCLOSURE



**The Professional Trade Union for Prison
Correctional, Public and Private Mental Health
Trust Services Providers and Immigration Services**

National Chair: Mark Fairhurst
General Secretary: Steve Gillan

Headquarters:
Cronin House
245 Church Street
Edmonton
London N9 9HW
t. 020 8803 0255
f. 020 8803 1761
e. general@poauk.org.uk
w. www.poauk.org.uk

North Regional Office
1 Linden House
Sardinia Street
Leeds
LS10 1BH

Northern Ireland
Castell House
116 Ballywalter Road
Millisle Co Down
BT22 2HS

Scotland
Bowden House
Cooperage Way, Alloa
Clackmannanshire
Fk10 3LP

Our Ref: IR/769/26/SG

24th March 2026

Dear Deputy Prime Minister and Secretary of State for Justice

SECTION 127 CRIMINAL JUSTICE PUBLIC ORDER ACT 1994

I met with you in my capacity as TUC President along with Paul Nowak TUC General Secretary in what was a political meeting on the above-named subject matter on 23rd February 2026. Prior to that Mark Fairhurst National Chair and I met with you in our POA capacity on a range of subject matters of which this was included and we touched on both meetings about resolving issues amicably rather than relying on the European Court of Human Rights where we currently have an application lodged which I suspect is probably a little embarrassing for a Labour Government where you are defending anti trade union legislation enacted by a Conservative Government.

I wish to bring to your attention which was not available to me during our meetings which are the conclusions of the European Committee of Social Rights, which found the United Kingdom to be in breach of its obligations under the European Social Charter in relation to the rights of Prison Officers (excluding Scotland) where the Scottish Government have restored the rights to strike for the POA. This document was published at the end of January 2026 along with its findings.

At the heart of the Committee's findings is a simple but serious concern in that Prison Officers in the UK except for Scotland are subject to a blanket ban on the right to strike, without meaningful alternative protections. This places them in a uniquely disadvantaged position compared to other workers, despite operating in one of the most demanding, high risk, and publicly vital roles in our society.

This is not an abstract legal issue, it is about fairness, safety, and respect. Prison Officers face daily risks to the physical and mental well-being yet are denied a fundamental lever available to most workers when negotiations breakdown. The European Committee's Report makes clear that such a sweeping prohibition is neither proportionate nor justified unless accompanied by robust, effective safeguards. At present, those safeguards fall short.

Maintaining the status quo carries real consequences. It risks further deterioration in morale, challenges in recruitment and retention, and ultimately impacts the stability and safety of our Prison System. A workforce that feels unheard and undervalued is not one that can sustainably deliver the high standards the public rightly expects.

There is also a broader question of principle. The UK has long positioned itself as a champion of rights, fairness and the rule of law. Persisting with arrangements that fall

below internationally accepted standards undermines that position and invites avoidable criticism at a time when global scrutiny of labour rights is increasing.

Reform does not require abandoning public safety. Other countries successfully balance operational continuity with workers' rights through carefully designed proportionate systems, whether by permitting limited, regulated industrial action or ensuring genuinely independent and effective arbitration mechanisms. The current UK framework does neither sufficiently as I explained to you at our meetings.

I therefore urge the Government once again to avoid Court action and take the opportunity to;

- Reviewing the blanket prohibition on strike action for Prison Officers.
- Introducing fair and credible dispute resolution mechanisms which commands the confidence of the POA.
- Engaging constructively with the Officers of the Union as the leaders of the POA to rebuild trust and demonstrate respect for the workforce.
- To revisit the offer that I made along with the General Secretary of the TUC to put a third-party mediator who commands the respect of Government and POA on a without prejudice basis to ascertain whether agreement can be reached.

This is an opportunity to show leadership, to support those who work on the frontline in our Justice System for bringing the UK back into alignment with its international commitments.

I would welcome clarity on how the Government intends to respond to the Committee's findings and whether it will commit to meaningful reform in this area where the POA have been treated disgracefully since 1994. I look forward to engaging with you along with our National Chair Mark Fairhurst in the near future. For ease of reference I attach the link to the findings of the ECSR <https://rm.coe.int/conclusions-xxiii-1-2025-united-kingdom-en/48802a4af8>

I will be making this letter available to the TUC and our wider membership as we will be raising our campaign profile in the coming weeks and months on this issue as I indicated at our meeting. I look forward to your urgent response as I am sure reaching a negotiated solution is far better than the Government defending a previous Governments decision on a strike ban.

Yours Sincerely



STEVE GILLAN
General Secretary

Sent via email to:

secofstate@justice.gov.uk
PS.DeputyPrimeMinister@justice.gov.uk

The Lord Chancellor & Secretary of State for Justice
The Rt David Lammy MP



January 2026

European Social Charter

European Committee of Social Rights

Conclusions XXIII-1

UNITED-KINGDOM

This text may be subject to editorial revision.

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts conclusions; in respect of collective complaints, it adopts decisions.

A presentation of this treaty as well as statements of interpretation formulated by the Committee appear in the General Introduction to the Conclusions.¹

The 1961 European Social Charter was ratified by the United Kingdom on 11 July 1962. The time limit for submitting the 43rd report on the application of this treaty to the Council of Europe was 31 December 2024 and the United Kingdom submitted it on 3 January 2025. On 9 July 2025, a letter was addressed to the Government requesting supplementary information regarding Articles 3§3, 6§1, 6§4. The Government submitted its reply on 7 October 2025.

The present chapter on the United Kingdom concerns 6 situations and contains:

- 0 conclusions of conformity
- 6 conclusions of non-conformity: Articles 3§1, 3§2, 5, 6§1, 6§2, 6§4

The next report from the United Kingdom will be due on 31 December 2026.

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

Article 3 - Right to safe and healthy working conditions

Paragraph 1 - Safety and health regulations

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

The Committee recalls that, for the purposes of the present report, States were asked to reply to targeted questions for Article 3§1 of the 1961 Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

In its previous conclusion, the Committee held that the situation in the United Kingdom was not in conformity with Article 3§1 of the 1961 Charter on the ground that not all self-employed and domestic workers are covered by the occupational health and safety regulations (Conclusions XXII-2 (2021)). The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions, including the previous conclusion of non-conformity as part of the targeted questions.

The right to disconnect

In a targeted question, the Committee asked for information on the measures taken to ensure that employers put in place arrangements to limit or discourage work outside normal working hours (including the right to disconnect); and on how the right not to be penalised or discriminated against for refusing to undertake work outside normal working hours is ensured.

As regards Great Britain, the report notes the absence of regulations on the right to disconnect. However, it refers to the relevant regulations concerning working time, including overtime and rest periods. Moreover, the report notes that the Government committed to adopting a statutory Code of Practice that would offer practical guidance to employers and workers on how to manage contact and other work-related activities outside normal hours, including by providing for a right to disconnect.

As regards Northern Ireland, the report similarly notes that the relevant authorities are currently considering the possibility of introducing regulations on the right to disconnect in the forthcoming Good Jobs Employment Rights Bill. As regards the Isle of Man, the report provides a detailed description of occupational health and safety regulations aimed at preventing working outside normal hours. This includes a requirement to assess risks associated with working outside normal hours, long working hours, and the failure to provide sufficient rest and breaks from work, the infringement of which is subject to enforcement action.

The Committee recalls that, consistent with States Parties' obligations under Article 3§2 of the Charter, in order to protect the physical and mental health of persons teleworking or working remotely and to ensure the right of every worker to a safe and healthy working environment, it is necessary to fully enable the right of workers to refuse to perform work outside their normal working hours (other than work considered to be overtime and fully recognised accordingly) or while on holiday or on other forms of leave (sometimes referred to as the "right to disconnect") (Statement of interpretation on Article 3§2, Conclusions 2021).

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 3§1 of the 1961 Charter on the ground that workers do not have the right to disconnect.

Personal scope of the regulations

In a targeted question, the Committee asked for information on the measures taken to ensure that self-employed workers, teleworkers and domestic workers are protected by occupational health and safety regulations; and on whether temporary workers, interim workers and workers on fixed-term contracts enjoy the same standard of protection under health and safety regulations as workers on contracts with indefinite duration.

Self-employed workers

The report reiterates information that the Committee reviewed previously (Conclusions XXII-2 (2021)). The Committee recalls that, under Article 3§2 of the Charter, all workers, including the self-employed, must be covered by occupational health and safety regulations on the ground that employed and self-employed workers are normally exposed to the same risks (Conclusions 2003, Romania). The Committee therefore reiterates its previous conclusion that the situation in the United Kingdom is not in conformity with Article 3§1 of the 1961 Charter on the ground that certain categories of self-employed workers are not covered by occupational health and safety regulations.

Teleworkers

The report notes that in Great Britain teleworkers are protected by occupational health and safety regulations, including as regards risk assessments and protections from risks arising from working with information and communication technology (ICT) equipment. Northern Ireland and the Isle of Man operate under similar legal frameworks as Great Britain.

Domestic workers

The report reiterates information that the Committee reviewed previously (Conclusions XXI-2 (2017) and XXII-2 (2021)). Specifically, health and safety legislation covers only domestic workers employed through an employment agency and employees whose duties extend beyond purely domestic tasks. The Committee also recalls that occupational health and safety regulations must apply to all workplaces without exception, including private homes, and that domestic workers must therefore be protected (Conclusions 2009, Romania). It therefore reiterates its previous conclusion that the situation in the United Kingdom is not in conformity with Article 3§1 of the 1961 Charter on the ground that certain categories of domestic workers are not covered by occupational health and safety regulations

Temporary workers

The report notes that temporary workers, interim workers and workers on fixed-term contracts should be treated no differently to other workers for occupational health and safety purposes.

Conclusion

The Committee concludes that the situation the United Kingdom is not in conformity with Article 3§1 of the 1961 Charter on the grounds that:

- workers do not have the right to disconnect;
- certain categories of self-employed workers are not covered by occupational health and safety regulations;
- certain categories of domestic workers are not covered by occupational health and safety regulations.

Article 3 - Right to safe and healthy working conditions

Paragraph 2 - Enforcement of safety and health regulations

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

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to targeted questions for Article 3§2 of the 1961 Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The Committee asked for information on measures taken to ensure the supervision of the implementation of health and safety regulations concerning vulnerable categories of workers such as: (i) domestic workers; (ii) digital platform workers; (iii) teleworkers; (iv) posted workers; (v) workers employed through subcontracting; (vi) the self-employed; (vii) workers exposed to environmental-related risks such as climate change and pollution.

The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions.

The report notes that health and safety legislation in the United Kingdom applies to all workers, including those on non-standard contracts. Concerns are investigated by regulatory authorities who may take proportionate enforcement action, including advice, notices, or prosecution, depending on the severity of the breach.

The Health and Safety Executive for Great Britain (HSE) and the Health and Safety Executive for Northern Ireland (HSENI) provide guidance on risks management and risk assessment in the workplace. HSE and HSENI are empowered to take proportionate enforcement action in instances where employers fail to meet their legal obligations to protect people. Health and safety concerns can be reported to the HSE and the HSENI via an online portal, where they will be assessed and followed up as appropriate, with any necessary enforcement action taken. Concerns can also be submitted by email or post.

In the Isle of Man, under the HASWA (the Health and Safety at Work etc. Act), employers have a general duty to ensure, so far as is reasonably practicable, the health, safety, and welfare of their employees. This duty explicitly includes the provision of supervision necessary to ensure employees can carry out their work safely. The Health and Safety at Work Inspectorate (HSWI) can require employers to demonstrate compliance with health and safety regulations during workplace inspections. It verifies, in particular, evidence of adequate supervision where vulnerable workers are concerned.

In response to a request for additional information, the report notes that the requirement for supervision is reinforced by the Management of Health and Safety at Work Regulations (MHSWR), which stipulate that employers must implement effective arrangements for the planning, organisation, control, monitoring, and review of health and safety measures.

Domestic workers

In response to a request for additional information, the report notes that employees working in private households who are self-employed, employed through an employment agency or whose role extends beyond domestic duties, for example those that involve complex healthcare activities or require specialist training, are covered by occupational health and safety legislation in Great Britain and Northern Ireland.

In the Isle of Man, where domestic workers are employed via agencies or are self-employed, and their activities pose risks to others, they fall within the remit of the Health and Safety at Work Order 2024. The health and safety regulator, the Department of Environment, Food and Agriculture (DEFA) may intervene where work activities in domestic settings present broader public or occupational risks.

The Committee notes that health and safety legislation covers only domestic workers employed through an employment agency and employees whose roles extend beyond domestic duties (see also Conclusion on Article 3§1 of the 1961 Charter). It further notes that the Health and Safety at Work Act (HSWA) does not apply to the employment of domestic workers in private households, such as live-in nannies, cooks or chauffeurs (see HSE guidance on domestic workers). The Committee considers that the situation is not in conformity with Article 3§2 of the 1961 Charter on the ground that certain categories of domestic workers are not subject to supervision in respect of health and safety at work.

Digital platform workers

The report notes that health and safety legislation applies to digital platform workers in the same way as to other workers. The report provides information on the enforcement of health and safety legislation, which is ensured by HSE, HSENI and HSWI respectively.

Teleworkers

The report notes that teleworkers in Great Britain are protected by occupational health and safety regulations, including those relating to risks arising from working with IT equipment. Employers are responsible for conducting risk assessments for teleworkers. The report states that health and safety legislation is enforced by the HSE, HSENI and HSWI, respectively.

The Committee notes that, under Article 3 of the Charter, teleworkers, who regularly work outside of the employer's premises by using information and communications technology, enjoy equal rights and the same level of protection in terms of health and safety as workers working at the employer's premises.

States Parties must take measures to ensure that employers comply with their obligations to ensure safe and healthy working conditions for their teleworkers, such as: (i) assessing the risks associated with the teleworker's work environment; (ii) providing or ensuring access to ergonomically appropriate equipment and protective equipment; (iii) providing information and training to teleworkers on ergonomics, safe use of equipment, physical risks (e.g. musculoskeletal disorders, eye strain) and prevention of psychosocial risks (e.g. isolation, stress, cyberbullying, work-life balance, including digital disconnect, and electronic monitoring); (iv) maintaining clear documentation and records; (v) providing appropriate support through human resources or health and safety officers/services; and (vi) ensuring that teleworkers can effectively report occupational accidents or health and safety issues encountered during teleworking. States Parties must also take measures to ensure that teleworkers comply with the guidelines and regulations on health and safety and co-operate with employers and labour inspectorate or other enforcement bodies in this sense.

The labour inspectorate or other enforcement bodies must be entitled to effectively monitor and ensure compliance with health and safety obligations by employers and teleworkers. This requires to: (i) conduct regular and systematic supervision, including remote audits; (ii) review employers' risk assessments and training documentation; (iii) verify the appropriateness and effectiveness of preventive measures taken by employers; (iv) have adequate resources, legal authority, and clearly defined powers to issue corrective instructions and impose proportionate and dissuasive sanctions in cases of non-compliance.

Posted workers

In response to a request for additional information, the report notes that workers sent to work in Great Britain and Northern Ireland by their employer are protected under UK health and safety law for the duration of their posting. The report adds that their employer has an obligation to protect them from harm where they are based by assessing and identifying the risks associated with their work activity and putting measures in place to eliminate or control these risks, where possible.

The report notes that in the Isle of Man, employers are expected to (i) ensure that the Isle of Man workers posted abroad receive protections equivalent to those under local health and safety laws; and (ii) comply with the Health and Safety at Work Order 2024 (HASWA), which requires employers to take all reasonably practicable steps to ensure worker safety, including when operating internationally. The latter includes supervision.

Workers employed through subcontracting

In response to a request for additional information, the report notes that health and safety legislation applies to subcontracted workers. The employer must provide the contractor with appropriate Health & Safety information relating to the work to be carried out, so that the work can be done safely. The HSE and the HSENI provide guidance for contractors and subcontractors.

The report further states that subcontracted workers on the Isle of Man are protected under the general provisions of the HASWA. Moreover, the Management of Health and Safety at Work Regulations 2003 (MHSWR), and the Construction (Design and Management) Regulations (CDM) apply to relevant projects, which require coordination, competence checks, and ongoing supervision.

Self-employed

In response to a request for additional information, the report notes that health and safety legislation protects self-employed workers in the same way as other workers. The self-employed also have a duty to protect those who may be exposed to risks to their health and safety arising from their undertaking. In Northern Ireland, it is the duty of every self-employed person to conduct their work activities in a manner that ensures, as far as is reasonably practicable, that they and any other persons (who are not their employees) affected by their work, are not exposed to risks to their health or safety (under the Health and Safety at Work (Northern Ireland), Order 1978).

The report states that enforcement action, including prosecution, can be taken against the self-employed in instances where they have failed to ensure that, so far as is reasonably practicable, persons affected by their work are not exposed to risks to their health and safety.

The report notes that, in the Isle of Man, self-employed individuals are subject to health and safety legislation if their work poses a risk to others or if they operate in high-risk sectors (e.g. construction, agriculture). The self-employed workers are required to conduct risk assessments and implement appropriate control measures in line with the HASWA.

Workers exposed to environment-related risks such as climate change and pollution

In response to a request for additional information, the report notes that the HSE and the HSENI are responsible for regulating workplace risks within the scope of the Health and Safety at Work Act, the Health and Safety at Work (Northern Ireland) Order, and associated regulations. The report also states that where environmental conditions may have an impact on the risks arising from work activities, these factors must be identified and control measures put in place in the same way as for all workplace risks. Duty bearers must take measures to protect people from risks 'so far as is reasonably practicable', with the HSE and the HSENI setting the required outcomes, but not prescribing how to achieve them.

The report provides information on the measures taken to protect workers from environmental risks in the Isle of Man, including guidance on exposure to heat, UV and pollution, employers' obligations during extreme weather, and the integration of occupational health into the Climate Change Plan 2022–2027. The report indicates that the DEFA - the Isle of Man's health and safety enforcing authority - is responsible for enforcement and provides support, inspections and guidance to ensure compliance across all sectors with regard to excessive heat and cold

in the workplace. This is to ensure that employers are monitoring temperature extremes likely to affect the health, safety and wellbeing of their employees.

The Committee recalls that States must effectively monitor the application of standards addressing climate-related safety and health risks, including through appropriate supervisory mechanisms, and should undertake these efforts in close consultation with employers' and workers' organisations.

Risk assessment and prevention/protection plans should include measures aimed at mitigating the effects of climate change on the safety and physical and mental health of workers (for example, provision of personal protective equipment, appropriate clothing, sun protection, hydration, ventilation, as well as the introduction of reduced or flexible working hours and the provision of mental health support and other support services, where appropriate). The Committee further stresses the importance of providing guidance and training to employers and workers, as well as implementing awareness-raising activities, collection of data and carrying out of research concerning the impact of climate change.

Conclusion

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 3§2 of the 1961 Charter on the ground that certain categories of domestic workers are not subject to supervision in respect of health and safety at work.

Article 5 - Right to organise

The Committee takes note of the information contained in the report submitted by the United Kingdom as well as the comments submitted by the Institute of Employment Rights (IER).

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to the targeted questions for Article 5 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided in the report in response to the targeted questions.

Positive freedom of association of workers

In its targeted question a), the Committee asked for information on measures that have been taken to encourage or strengthen the positive freedom of association of workers, particularly in sectors which traditionally have a low rate of unionisation or in new sectors (e.g., the gig economy).

In reply, the report indicates that the Government is committed to strengthening the rights of working people by empowering workers to organise collectively through trade unions.

The report states that the new Employment Rights Bill repeals previous restrictions on trade union activity and modernises and simplifies the rules governing statutory trade union recognition. The Committee notes from the official websites (<https://www.gov.uk/>) that the bill aims in particular at strengthening trade unions' right of access, including providing for digital access, introducing new rights and protections for trade unions representatives, simplifying the trade union recognition process, including providing better access arrangements for unions and dealing more effectively with unfair practices and introducing a duty for employers to inform workers of their right to join a trade union.

According to the report, the Government has committed to consulting on moving towards a simpler two-part framework that differentiates between workers and the genuinely self-employed. It has also committed to consult on further protections for the self-employed, including the right to a written contract, and extension of health and safety and blacklisting protections to the self-employed.

Concerning Northern Ireland, the report indicates that the Department for Economy of the Ministry of Economy conducted a public consultation in 2024 on the Good Jobs Employment Rights Bill. It further states that guidance documentation on trade union membership and worker rights was produced for participants.

The Committee notes from the public consultation document (The Good Jobs Employment Rights Bill, Public Consultation, July 2024) that the consultation sought to gather opinion from the public, stakeholders and interested parties on a range of employment rights with a view to enhancing the Employment Law framework in the north of Ireland. The Committee notes that the consultation and the consultation document have a special focus on digital platform work. The consultation document recognises that there had been a significant rise in new forms of working, such as "gig" work or work arranged through digital platforms, and that these forms of working can provide workers with greater flexibility but can leave workers in a precarious or insecure working arrangement. The document underlines the need to implement rules to introduce a presumption of an employment relationship (as opposed to self-employment) in digital platform work. In particular, the question booklet attached to the consultation document specifically asks the participants for their comments about the employment relationships of those working on digital platforms and whether there are sectors where bogus self-employment might be particularly prevalent.

Concerning the Isle of Man, the report states that the Government of Isle of Man currently has a Code of Practice on the Statutory Recognition of Trade Unions and is currently conducting

a consultation on statutory recognition of trade unions in the workplace. The Committee notes from the webpage of the Department for Enterprise of the Government on the Isle of Man (www.iomdfenterprise.im) that the topics covered by the trade union legislation consultation include topics such as required notices for industrial action, industrial action in essential services, and legal requirements for the recognition of trade unions.

In their comments, IER indicates that employers can undermine trade union rights of workers by disguising the classification of the latter as self-employed. IER refers to the case of R (Independent Workers Union of Great Britain) v. Central Arbitration Committee, Roo Foods Ltd (t/a Deliveroo) [2023] and indicates that in this case, the domestic courts considered that Deliveroo drivers did not fall within the definition of “worker” because they were not in an employment relationship since they had the right to engage a substitute to undertake their work, and hence they were self-employed. A consequence of this judgment, according to IER, is that such workers are not entitled to form a trade union. IER also underlines that the right to use a substitute is unilaterally inserted in the contracts by the employer. Therefore, gig workers, such as Deliveroo riders, are barred from forming their own trade union which is, according to IER, a fundamental violation of Article 5 of the Charter. IER states that although it is not known how many gig workers are engaged in the delivery sector and subject to substitution clauses, they assert that the estimated number of gig workers currently totals 4.7 million in the UK.

The Committee understands from the submissions of the IER with regard the case of Independent Workers Union of Great Britain v. Central Arbitration Committee (2023) that the simple insertion of substitution clauses in employment contracts, or clauses denying any obligation to accept or provide work, even where such terms do not reflect the real employment relationship, are enough to undermine trade union rights of these workers. The Committee is not aware of any measures taken by the Government to guarantee trade union rights of platform workers whose employment contract include a “substitution clause”. In addition, the Committee also notes from outside sources (Keith Ewing, *Judicial Backpedaling on Trade Union Rights in the Gig Economy: Deliveroo in the United Kingdom* Supreme Court, 13 December 2023, <https://www.ier.org.uk/comments/judicial-backpedalling-on-trade-union-rights-in-the-gig-economy/>), that according to the Central Arbitration Committee (which is the statutory body that deals with issues relating to trade union recognition and collective bargaining) in practice substitution is very rare because there is no need for a rider to engage a substitute as there is no need to log onto the App if the rider does not want to accept a job or is not available for work.

The Committee therefore holds that no measures have been taken to encourage or strengthen the positive freedom of association of gig workers.

Legal criteria for determining the recognition of employers' organisations for the purposes of social dialogue and collective bargaining

In reply to the Committee's request for information concerning the legal criteria for determining the recognition of employers' organisations for the purposes of social dialogue and collective bargaining (targeted question b)), the report sets out the definition of an employer association as set out in Section 122 of the Trade Union and Labour Relations (Consolidation) Act 1992. According to this provision, an “employers' association” means an organisation (whether temporary or permanent) which consists wholly or mainly of employers or individual owners of undertakings and whose principal purposes include the regulation of relations between employers and workers or trade unions; or which consists wholly or mainly of constituent or affiliated organisations, or representatives of such constituent or affiliated organisations, and whose principal purposes include the regulation of relations between employers and workers or between employers and trade unions.

The Committee does not find any other criteria framework for the recognition of employers' organisations for the purposes of social dialogue and collective bargaining in the Trade Union

and Labour Relations (Consolidation) Act. The Committee notes from outside sources (eurofound.europa.eu) that employers' organisations do participate in collective bargaining and social dialogue through more informal and voluntary arrangements, especially in sectors with established collective structures. Where employers' associations exist, they typically engage in negotiations based on established practice or mutual consent.

Nor does the Committee find any criteria for determining the recognition of employers' organisations for the purposes of social dialogue and collective bargaining in the Employment Act 2006 (Part 2 – Collective Bargaining) and Trade Unions Act 1991 (Isle of Man) and in the Trade Union and Labour Relations (Northern Ireland) Order 1995.

Legal criteria for determining the recognition and representativeness of trade unions in social dialogue and collective bargaining

In a targeted question, the Committee requested information on the legal criteria for determining the recognition and representativeness of trade unions in social dialogue and collective bargaining. It particularly requested information on the status and prerogatives of minority trade unions; and the existence of alternative representation structures at company level, such as elected employee representatives (targeted question c)).

In reply, the report states that under the Trade Union and Labour Relations (Consolidation) Act 1992 a "trade union" means an organisation (whether temporary or permanent) which consists wholly or mainly of workers and whose principal purposes include the regulation of relations between workers and employers or employers' associations; or which consists wholly or mainly of constituent or affiliated organisations or representatives of such constituent or affiliated organisations, and whose principal purposes include the regulation of relations between workers and employers.

According to the report, this Act governs the two routes to trade union recognition, voluntary recognition and statutory recognition. The simplest approach for trade union recognition is through a voluntary agreement between the union and the employer. Statutory recognition is required when an employer refuses to recognise a trade union, and that union wishes to impose compulsory collective bargaining on the employer. The right to impose compulsory collective bargaining is subject to the following qualifying conditions: • The statutory procedure only applies to firms employing at least 21 workers and to unions which have a certificate of independence. • A request under the statutory procedure must be made by the union, to the employer, in writing and clearly identify the relevant 'bargaining unit', the set of employees that will be represented by the union when it is recognised. The union also needs to show that at least 10% of the workers in the bargaining unit are members of the union, and that a majority of workers in the unit support the union conducting collective bargaining. • the union must represent either workers or employees. Self-employed workers are excluded from the right compulsory collective bargaining, although they retain the right to voluntarily collective bargaining.

If the employer refuses to recognise the trade union or fails to respond, then the union applies to the Central Arbitration Committee for recognition. The Central Arbitration Committee (CAC) is an independent tribunal with statutory powers to resolve certain types of collective disputes in Great Britain, specifically around the statutory recognition of trade unions and disclosure of information to trade unions. Similar criteria apply in these respects to the Isle of Man and Northern Ireland.

As for minority trade unions, the report indicates that an employer is free to recognise more than one union in a workplace.

With regard to alternative representation structures, the report indicates that the domestic law creates rights for employees to be informed and consulted about developments in the workplace on an ongoing basis. Where a valid employee request is made, the employer must negotiate an information and consultation agreement with representatives of the employees

and must make arrangements for employees to appoint or elect negotiating representatives; inform the workforce in writing of the representatives who have been appointed or elected and invite the negotiating representatives to negotiate an information and consultation agreement covering all employees and setting out the circumstances in which the employer will inform and consult with employees.

The right of the police and armed forces to organise

In a targeted question, the Committee requested information on whether and to what extent members of the police and armed forces are guaranteed the right to organise (targeted question d)).

Concerning police officers, the report states that police officers are servants of the Crown holding the Office of Constable and are not permitted to be a member of any trade union. Officers up to and including chief inspectors are represented by alternative official bodies, being the Police Federation of England & Wales, the Scottish Police Federation, the Police Federation for Northern Ireland and the Police Federation of the Isle of Man. These are police staff associations set up by law to represent and support police officers on issues such as pay, allowances, terms and conditions, and other matters operating through local/district branches.

The Committee notes from official sources that the Police Federation of England and Wales (PFEW) is established under the Police Act 1996 as the statutory staff association for police officers from the ranks of constable to chief inspector. According to Article 59 of the Police Act, the Police Federation represents members of the police forces in England and Wales, and special constables appointed for a police area in England and Wales, in all matters affecting their welfare and efficiency. It represents a member of a police force in disciplinary proceedings in respect of the conduct, efficiency and effectiveness of members of police forces, including procedures for cases in which such persons may be dealt with by dismissal.

The Committee also notes from an official Police Federation information document (Police Federation, Working for you, to represent, influence and negotiate (www.polfed.org)) that the Federation participates in the evidence-gathering process of the Police Remuneration Review Body (PRRB). It represents and supports police officers on issues such as pay, allowances, terms and conditions, as well as advising and lobbying on operational policing issues, influencing legislation, and providing training on issues such as equality, promotion, discipline and health and safety.

As to the armed forces, the report indicates that the trade union legislation specifically excludes armed forces personnel from collective labour relations. Armed Forces personnel are therefore not permitted to join an independent trade union for collective bargaining purposes. The report also indicates that the Government continues to keep its policies in relation to collective representation for the Armed Forces under review, with a view to ensuring they are in line with international standards.

The Committee recalls that in its Conclusions 2022 (Article 5, United Kingdom), it found that the situation in the United Kingdom was not in conformity with Article 5 of the Charter, on the ground, *inter alia*, that the right to organise was not guaranteed to members of the armed forces. The Committee understands that the legislative provisions which led it to find a violation of Article 5 of the Charter have not been amended in the meantime.

The Committee therefore reiterates its conclusion of non-conformity in this respect.

Conclusion

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 5 of the 1961 Charter on the grounds that:

- no measures have been taken to encourage or strengthen the positive freedom of association of gig workers;
- the right to organise is not guaranteed to members of the armed forces.

Article 6 - Right to bargain collectively

Paragraph 1 - Joint consultation

The Committee takes note of the information contained in the report submitted by the United Kingdom and in the comments made by the Institute of Employment Rights (IER).

The Committee recalls that for the purposes of the present report, States were asked to reply to the targeted questions for Article 6§1 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided in the report in response to the targeted questions.

Measures to promote joint consultation

In a targeted question, the Committee asked as to what measures are taken by the Government to promote joint consultation.

The report states that the Government regularly consults on important matters of policy and follows proper legal and procedural principles. This consultation includes organisations of employers and trade unions, as well as others such as individual workers, small business owners and consumers of public and private services.

The Information and Consultation of Employees Regulations (ICE) give employees the right to request a formal agreement to be informed and consulted on significant matters and decisions. As a minimum, this must include information about the undertaking's activities and economic situation and information and consultation on employment prospects and decisions likely to lead to substantial changes in work organisation or contractual relations.

The IER, while not contesting the facts submitted by the Government, considers that the Government has failed to promote joint consultations within the meaning of Article 6§1. According to the IER, apart from the ICE regulations, the Government has not adopted any measures to promote consultations between social partners. There were almost no formal mechanisms by which government consulted with social partners, such as the previous tripartite institutions which had been abolished during the 1980ies. In 2023, the Committee on Freedom of Association of the ILO specifically requested the Government to engage with the social partners on challenges regarding the legislative provisions of sympathy strikes in conformity with freedom of association. The fact that the Government did not take any steps to further the requested consultation exemplified, according to the IER, that the Government did not comply with Article 6§1.

The Committee recalls that it has previously found the mechanisms to trigger joint consultation under the ICE Regulations to be in conformity with Article 6§ 1 of the Charter (Conclusions XX-3). It considers, however, that the submissions by the IER reveal shortcomings in the promotion of social dialogue on issues of joint interest.

In Northern Ireland, the Information and Consultation of Employees Regulations 2005 provide accommodation for employees to request that their employer set up arrangements to inform and consult them on matters relating to the business. Information and guidance documents are publicly available on these Regulations. In addition, this area is being examined as part of the Department for Employment consultation on the Good Jobs Employment Rights Bill.

The Isle of Man Government maintains an Industrial Relations Forum which enables trade union representatives to discuss matters related to public sector employees and other issues with Government representatives.

Issues of mutual interest that have been the subject of joint consultations and agreements adopted

In a targeted question, the Committee asked as to what issues of mutual interest have been the subject of joint consultation during the past five years, what agreements have been adopted as a result of such discussions and how these agreements have been implemented.

According to the report, consultations between employers and employees are a private matter, and the Government does not receive nor record data on these consultations outside of collective redundancies (where information is collated by the Redundancy Payments Service) and complaints. Where an employee considers they have not been properly consulted under the terms and conditions set out under the ICE Regulations, they are entitled to complain to the Central Arbitration Committee.

The Committee reiterates that consultation must cover all matters of mutual interest, and particularly: productivity, efficiency, industrial health, safety and welfare, and other occupational issues, economic problems, and social matters (Conclusions I (1969), Statement of Interpretation on Article 6§1; Conclusions V (1977), Ireland). The Committee takes note of the Government's submissions that it does not receive or keep a record on joint consultation, this being regarded as a private matter between employers and employees.

According to other sources consulted by the Committee, the system of industrial relations in the United Kingdom is characterised by voluntary relations between the social partners, with a minimal level of interference from the state. There is a high level of decentralisation and a low level of coordination in relation to collective bargaining, with most taking place at the workplace or establishment level (Eurofound, Working life in the United Kingdom; 2019, background, industrial relations context).

The Committee considers that the fact that the Government considers joint consultations to be a private matter between employers and employees does not absolve them from their reporting obligations under the Charter. The Committee concludes that it has not been established that joint consultations have been conducted on all matters of mutual interest.

Joint consultation on digital transition and the green transition

In a targeted question, the Committee asked if there has been any joint consultation on matters related to (i) the digital transition, or (ii) the green transition.

Digital transition

According to the report, building on the ambition of the France AI Action Summit Future of Work track, and the complementary initiatives of the G7 and OECD, the UK is beginning to scope the role of transparency and consultation in the deployment of AI in the workplace.

In response to a request for additional information, the report states that through the "Plan to Make Work Pay", the Government is creating a new partnership approach of cooperation and negotiation that sees Government, employers and trade unions working together to tackle challenges impacting on the economy.

The Plan includes proposals on workplace technology and surveillance, notably to examine what AI and new technologies mean for work, jobs and skills; to promote best practice in safeguarding against the invasion of privacy through surveillance technology, spyware and discriminatory algorithmic decision making; and to make the introduction of surveillance technologies in the workplace subject to consultation and negotiation with trade union or employee representatives.

Implementation of these proposals are currently in development and a public consultation on surveillance technologies and negotiations with trade unions and staff representatives will be launched in due course. This forms part of the UK Government's extensive work on

employment policy and legislative change, which involve consultation at all levels with employer and worker representatives.

The Department for Science, Innovation and Technology (DSIT) is committed to supporting start-ups and small and medium-sized enterprises (SMEs) in implementing responsible AI practices. To help achieve this, DSIT has developed the AI Management Essentials (AIME) tool— a self-assessment resource that distils key principles from existing AI governance frameworks to guide firms, particularly SMEs, in adopting baseline good practices. Earlier this year, a public consultation was launched to ensure the tool meets business needs. The response to this consultation, along with revisions to the tool, will be published in September 2025. Once released, AIME will serve as a blueprint for systematic responsible AI adoption and help smaller businesses engage employees in the AI implementation process.

The Committee notes that the Government is in the process of putting in place tools for broad consultation on matters relating to the digital transition. It notes, however, that the report does not contain any concrete example of joint consultations between social partners having already been carried out on these matters. The Committee concludes that it has not been established that joint consultations have been held on issues relating to the digital transition.

Green transition

Recognising the critical workforce challenges within the energy sector transition, the Government has established the Office for Clean Energy Jobs within the Department for Energy Security & Net Zero. The Office is dedicated to ensuring that clean energy jobs are not only abundant, but also of high quality, focussing on fair pay, favourable terms, and good working conditions.

According to the report, the Government is actively engaging with key stakeholders, including trade unions and industry leaders, to keep job quality at the forefront of their efforts.

According to other sources consulted by the Committee, in 2022, workers and employers collaborated with the Government to develop an “energy skills passport” to assist offshore oil and gas workers acquire transferrable skills for the offshore renewables sector (ILO conference paper *Achieving a just transition towards environmentally sustainable economies and societies for all*, 2023).

Conclusion

The Committee concludes that the situation in United Kingdom is not in conformity with Article 6§1 of the 1961 Charter on the ground that it has not been established that:

- joint consultations have been carried out on all matters of mutual interest;
- joint consultations have been held on issues relating to the digital transition.

Article 6 - Right to bargain collectively

Paragraph 2 - Negotiation procedures

The Committee takes note of the information contained in the report submitted by the United Kingdom and of the comments submitted by the Institute of Employment Rights (IER).

The Committee recalls, that for the purposes of the present report, States were asked to reply to targeted questions for Article 6§2 of the 1961 Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

In its previous conclusion, the Committee found that the situation in the United Kingdom was not in conformity with Article 6§2 of the 1961 Charter on the ground that workers and trade unions did not have the right to bring legal proceedings in the event that employers offer financial incentives to induce workers to exclude themselves from collective bargaining (Conclusions XXII-3 (2022)). The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions, including the previous conclusion of non-conformity as part of the targeted questions.

Coordination of collective bargaining

In a targeted question, the Committee asked for information on how collective bargaining was coordinated between and across different bargaining levels. Specifically, the question sought details on factors such as *erga omnes* clauses and other mechanisms for the extension of collective agreements, as well as to the favourability principle and the extent to which local or workplace agreements could derogate from legislation or collective agreements concluded at a higher level.

The report does not provide any specific information in response to the targeted question.

The Committee notes that the favourability principle establishes a hierarchy between different legal norms and between collective agreements at different levels. Accordingly, it is generally understood to mean that collective agreements may not weaken the protections afforded under the law and that lower-level collective bargaining may only improve the terms agreed in higher-level collective agreements. The purpose of the favourability principle is to ensure a minimum floor of rights for workers.

The Committee considers the favourability principle a key aspect of a well-functioning collective bargaining system within the meaning of Article 6§2 of the 1961 Charter, alongside other features present in the legislation and practice of States Parties, such as the use of *erga omnes* clauses and extension mechanisms. These features are typically found in comprehensive sectoral bargaining systems with high coverage, usually associated with stronger labour protections.

At the same time, the Committee notes that some States Parties provide for the possibility of deviations from higher-level collective agreements through what may be termed opt-out, hardship, or derogation clauses. The Committee applies strict scrutiny to such clauses, based on the requirements set out in Article 31 of the 1961 Charter. As a matter of principle, the Committee considers that their use should be narrowly defined, voluntarily agreed, and that core rights must be always protected. In any event, derogations must not become a vehicle for systematically weakening labour protections.

Promotion of collective bargaining

In a targeted question, the Committee asked for information on the obstacles hindering collective bargaining at all levels and in all sectors of the economy (e. g. decentralisation of collective bargaining). The Committee also asked for information on the measures taken or planned to address those obstacles, their timeline, and the outcomes expected or achieved in terms of those measures.

The report notes that the United Kingdom has a highly decentralised collective bargaining structure, with most collective bargaining occurring at the enterprise level, and that this also applies to the Isle of Man. In Northern Ireland, collective agreement structures are mainly established in the public sector, except for the agricultural sector, which retains the Agricultural Wages Board.

The report also notes that collective bargaining and union membership have decreased steadily since the 1970s. This is attributed to the decline of highly unionised heavy industries, the difficulties in organising new industries such as the tech and services sector, the statutory restrictions on the right of unions to access workplace to recruit and organize, or the stringent trade union statutory recognition hurdles.

The Government plans to address these obstacles through a range of measures. Notably, a new Employment Rights Bill pending adoption in Parliament would improve the rules governing trade union recognition. The Government is also introducing sectoral Fair Pay Agreements, starting with adult social care, to expand sectoral collective bargaining coverage.

In Northern Ireland, the Government is gathering information on collective bargaining and plans to publish a review of consultation responses and policy actions. In the Isle of Man, the Government is consulting on whether to introduce statutory provisions for trade union recognition.

The IER also notes in its comments that collective bargaining coverage has declined sharply since the 1980s and currently stands at around 25%. This trend is attributed to a series of legislative measures adopted during this period, which have gradually eroded collective bargaining arrangements, particularly at the sectoral level. The IER considers that the proposed Employment Rights Bill does little to halt, let alone reverse, this decline. While acknowledging that improving the rules on trade union recognition could help revitalise collective bargaining at enterprise level, the Bill contains no measures addressing the crisis at sectoral level. The IER emphasizes that amendments to the Bill that would have enabled the Secretary of State to establish sectoral collective bargaining in any sector of the economy were rejected by the Government, and that the Bill therefore provides no mechanism for establishing sectoral bargaining in the future. Moreover, the Bill does not seek to reintroduce the extension mechanisms abolished by previous governments, nor does it remove the prohibition on a strike against anyone other than a worker's own employer, which makes sectoral bargaining virtually impossible. The IER also considers that the Fair Pay Agreements mentioned by the Government in its report do not constitute collective bargaining as understood in domestic or international law.

The Committee notes that high and stable collective bargaining coverage is typically associated with collective bargaining systems based on multi-employer, mainly sectoral, agreements (OECD, 2025, *Membership of unions and employers' organisations, and bargaining coverage: Standing, but losing ground*, OECD Policy Brief, among others). As also acknowledged by the Government, the collective bargaining system in the United Kingdom is primarily enterprise-based, characterised by relatively low bargaining coverage, and lacking meaningful coordination mechanisms. The report provides very limited information on the practical application of existing legal provisions. At the same time, the measures envisaged for promoting collective bargaining in line with Article 6§2 of the 1961 Charter appear insufficient. The Committee further notes that the report does not provide any information as regards the current status of the question previously found not to be in conformity with Article 6§2, on the ground that workers and trade unions did not have the right to bring legal proceedings in the event that employers offer financial incentives to induce workers to exclude themselves from collective bargaining (Conclusions XXII-3 (2022)). The Committee therefore concludes that the situation in the United Kingdom is not in conformity with Article 6§2 of the 1961 Charter on the ground that the promotion of collective bargaining is not sufficient.

Self-employed workers

In a targeted question, the Committee asked for information on the measures taken or planned to guarantee the right of self-employed workers, particularly those who are economically dependent or in a similar situation to employees, to bargain collectively.

The report notes that, in Great Britain, collective bargaining is available to all categories of workers, including self-employed and economically dependent persons. Examples include the Criminal Bar Association, which negotiates with the Government over legal aid fees for both employed and self-employed lawyers, and the National Union of Journalists, which represents both formally employed and freelance media professionals. In the Isle of Man, no measures have been taken or are currently planned to ensure the right to collective bargaining for economically dependent or self-employed workers. However, the report does not provide any information on the situation of workers in the platform and gig economy in this context.

The IER notes in its comments that gig workers do not have an effective legal mechanism affording them an opportunity to engage in collective bargaining. The Committee also refers to its corresponding assessment under Article 5 of the 1961 Charter regarding the situation in the United Kingdom, leading to a conclusion of non-conformity on the ground that no measures have been taken to encourage or strengthen the positive freedom of association of gig workers.

The Committee recalls that rapid and fundamental changes in the world of work have led to a proliferation of contractual arrangements designed to avoid the formation of employment relationships and to shift risk onto the labour provider. As a result, an increasing number of workers who are de facto dependent on one or more labour engagers fall outside the traditional definition of an employee (*Irish Congress of Trade Unions (ICTU) v. Ireland*, Complaint No. 123/2016, decision on the merits of 12 September 2018, §37). In establishing the type of collective bargaining protected by the Charter, it is not sufficient to rely solely on distinctions between workers and the self-employed; the decisive criterion is whether an imbalance of power exists between providers and engagers of labour. Where providers of labour have no substantial influence on the content of contractual conditions, they must be given the possibility of improving that imbalance through collective bargaining (*ICTU v. Ireland*, §38).

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 6§2 of the 1961 Charter on the ground that it has not been established that sufficient measures have been taken to promote the right to collective bargaining in respect of workers in the platform and gig economy.

Conclusion

The Committee concludes that the situation in the United Kingdom is not in conformity with Article 6§2 of the 1961 Charter on the grounds that:

- the promotion of collective bargaining is not sufficient;
- it has not been established that sufficient measures have been taken to promote the right to collective bargaining in respect of workers in the platform and gig economy.

Article 6 - Right to bargain collectively

Paragraph 4 - Collective action

The Committee takes note of the information contained in the report submitted by United Kingdom and in the comments by the Institute of Employment Rights.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 6§4 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will concern the information provided by the Government in response to the targeted questions.

Prohibition of the right to strike

In its targeted question, the Committee asked States Parties to indicate the sectors where the right to strike is prohibited and to provide details on the relevant rules and their application in practice, including relevant case law.

The report states that in the United Kingdom (UK), under the Police Act 1996, police officers are prohibited from striking.

Similarly, members of the armed forces are prohibited from striking under the Incitement to Disaffection Act 1934, and prison officers are prohibited from striking under the Public Order Act 1994.

Restricting strikes in sectors which are essential to the community is deemed to serve a legitimate purpose since strikes in these sectors could pose a threat to public interest, national security and/or public health (*Matica Hrvatskih Sindikata v. Croatia*, Complaint No. 116/2015, decision on the merits of 21 March 2018, §114; Conclusions I (1969), Statement of Interpretation on Article 6§4). However, simply banning strikes even in essential sectors – particularly when they are extensively defined, i.e. “energy” or “health” – is not deemed proportionate to the specific requirements of each sector (*Matica Hrvatskih Sindikata v. Croatia*, Complaint No. 116/2015, decision on the merits of 21 March 2018, §114). Simply prohibiting these workers from striking, without distinguishing between their particular functions, cannot be considered proportionate to the particular circumstances of each of the sectors concerned, and thus necessary in a democratic society (Conclusions XVII-1 (2006), Czech Republic). At most, the introduction of a minimum service requirement in these sectors might be considered in conformity with Article 6§4 (*Matica Hrvatskih Sindikata v. Croatia*, Complaint No. 116/2015, decision on the merits of 21 March 2018, §114; see also Conclusions XVII-1 (2006), Czech Republic).

The Committee considers that the blanket ban on prisoner officers striking cannot be deemed proportionate and thus goes beyond the limits permitted by Article G of the Charter. The Committee notes in this respect from the comments submitted by the Institute of Employment Rights that prison officers in Scotland have the right to strike, which makes the ban in England and Wales more difficult to justify.

Therefore, the Committee concludes that the situation is not in conformity with Article 6§4 of the Charter on the ground that that there is an absolute prohibition on the right to strike for the prison officers.

Concerning police officers, an absolute prohibition on the right to strike can be considered to be in conformity with Article 6§4 only if there are compelling reasons justifying why such an absolute prohibition on the right to strike is justified in the specific national context in question, and why the imposition of restrictions as to the mode and form of such strike action is not sufficient to achieve the legitimate aim pursued (*European Confederation of Police (EuroCOP) v. Ireland*, Complaint No. 83/2012, decision on the admissibility and merits of 2 December 2013, §211). Where restrictions to the right to strike of police officers are so excessive as to

render the right to strike ineffective, such restrictions will be considered to have gone beyond those permitted by Article G of the Charter (Article 31 of the 1961 Charter)(European Confederation of Police (EuroCOP) v. Ireland, Complaint No. 83/2012, decision on the admissibility and merits of 2 December 2013, §211). This includes situations where police officers may exercise the right to strike, but only provided certain tasks and activities continue to be performed during the strike period, including the prevention, detection and documentation of criminal offences; arrests; regulation and control of road traffic; protection of people and property; border control and; prevention and handling of incidents at borders (Conclusions 2022, North Macedonia).

No information has been provided on any compelling reasons for such a prohibition. The Committee concludes that the situation is not in conformity with Article 6§4 of the Charter on the ground that there is an absolute prohibition on the right to strike for the police.

The Committee recalls that the right to strike of members of the armed forces may be subject to restrictions under the conditions of Article G (Article 31 of the 1961 Charter), i.e. if the restriction is established by law, and is necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals. This includes a requirement that the restriction is proportionate to the aim pursued. The margin of appreciation accorded to States in terms of the right to strike of the armed forces is greater than that afforded to States Parties in respect of the police (European Organisation of Military Associations (EUROMIL) v. Ireland, Complaint No. 112/2014, decision on the merits of 12 September 2017, § 114-116).

Having regard to the special nature of the tasks carried out by members of the armed forces, the special circumstances of members of the armed forces who operate under a system of military discipline, and the potential that any industrial action could disrupt operations in a way that threatens national security, the Committee considers that the imposition of an absolute prohibition on the right to strike may be justified, provided such prohibition complies with the requirements of Article G, and provided the members of the armed forces are have other means through which they can effectively negotiate the terms and conditions of employment, including remuneration (European Organisation of Military Associations (EUROMIL) v. Ireland, Complaint No. 112/2014, decision on the merits of 12 September 2017, §117; *Confederazione Generale Italiana del Lavoro (CGIL) v. Italy*, Complaint No. 140/2016, decision on the merits of 22 January 2019, §152; *European Organisation of Military Associations (EUROMIL) v. Portugal*, Complaint No. 199/2021, decision on the merits of 11 September 2024, §100).

According to the report the Armed Forces Pay Review Body and the Senior Salaries Review Body provide independent annual recommendations on pay for the Armed Forces to the Prime Minister. Further the Soldiers, Sailors, Airmen and Families Association (SSAFA), the Royal Naval Association, the Royal Air Force Association, the Veterans Association and a great many more Regimental Associations and groups around the country which have regular access to the Chain of Command and Ministers to represent their members interests. Further The UK Government will appoint it first Armed Forces Commissioner in 2026 who will be a direct point of contact for the Armed Forces and their families to raise welfare issues that impact on their service life.

The Committee considers that it has not been established that the means available to members of the armed forces to defend their interests constitute an institutionalised process for allowing a negotiation as would be required in order to compensate for the absolute prohibition on the right to strike. The Committee concludes that the situation is not in conformity in this respect.

Restrictions to the right to strike and a minimum service requirement

In its targeted questions, the Committee asked States Parties to indicate the sectors where the right to strike is restricted and to provide details on the relevant rules and their application in practice, including relevant case law.

According to the report legislation sets out procedural requirements for strikes in certain sectors, in particular important public services, but strikes are not restricted as such in these sectors.

Prohibition of strike by seeking injunctive or other relief

The Committee asked States Parties to indicate whether it is possible to prohibit a strike by obtaining injunction or other form of relief from the courts or another competent authority (an administrative or arbitration) and if affirmative, to provide information on the scope and number of decisions in the past 12 months.

The report indicates that in the UK, if an employer believes a union has not conducted a ballot correctly or adhered to statutory provisions, the employer can seek an injunction from the High Court to halt the action. Should the High Court determine that the union did not comply with the statutory provisions, the union is required to conduct a new ballot. If the union proceeds with industrial action without re-balloting, it risks being held in contempt of Court and may face severe penalties, including the potential sequestration of its assets.

The report states that the UK does not have information on the number of Court decisions reached in relation to industrial action ballots over the past 12 years.

Conclusion

The Committee concludes that the situation in United Kingdom is not in conformity with Article 6§4 of the 1961 Charter even taking into account the possibility of subjecting the right to collective action to restrictions under Article 31, on the grounds that:

- the police are denied the right to strike;
- prison officers are denied the right to strike;
- members of the armed forces are denied the right to strike and it has not been established that are other means by which members of the armed forces can effectively negotiate the terms and conditions of employment, including remuneration.