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ANALYSIS OF THE EUROPEAN SOCIAL CHARTER AND ITS IMPORTANCE FOR THE PROTECTION OF SELECTED GROUPS OF WORKING WOMEN

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Abstract

Both the 1961 European Social Charter and its revised version of 1996 constitute international social and economic rights treaties ratified by the Member States of the Council of Europe. Together with the European Treaty for the Protection of Human Rights and Fundamental Freedoms, they are the cornerstones of the contractual system for the protection of human rights in the member countries of the Council of Europe. Moreover, these contracts have contributed significantly to the development of European human rights standards in the areas of personal management, labour law and social security law. Nevertheless, it receives minimal attention from legal theorists. This leads to problems in its interpretation in practice. Through scientific and doctrinal interpretation, authors examine the various provisions of the European Social Charter. They seek answers to practical application problems through scientific literature as well as the case-law of the European Court of Justice. The aim and result of the authors' work is to examine individual documents, to compare them and analyse the differences. The aim of the authors' work is also to evaluate the impact of the case law of the European Court of Justice in connection with the implementation of the Charter into the legal order as well as application practice. The benefit of this article is also the analysis of the impact of the Charter on the rights of working women.

Key words: employee, European Social Charter, revised charter, social rights

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Introduction

The second generation of human rights comprises economic, social and cultural rights. These rights concern equal conditions and equal treatment and are linked to the realisation of the economic and social tasks of the State. The United States began to recognise them after the First World War. Unlike the first generation of human rights, State action is essential to ensure

respect for the rights of the second generation. Like the first generation of human rights, the rights of the second generation are enshrined in the Universal Declaration of Human Rights from 1948 (Articles 22-27), as well as in the 1966 International Covenant on Economic, Social and Cultural Rights (Pešić, 1972, p.14-15)

The European Social Charter is still considered an important catalogue of economic and social rights today. Nevertheless, it is relatively unknown compared to other human rights, even though the first European Social Charter was already adopted by the Member States of the Council of Europe in 1961. Based on the analysis of domestic literature we conclude that there is not much awareness of this document, which may cause significant problems in its interpretation and national implementation.

The European Social Charter is specific to its core, which is rights, of which at least a specified number must be adopted by each Contracting Party. We also consider it is significant for the Charter of 1961 itself, the Protocols which developed and supplemented the original text of 1961 were adopted over the years by the Contracting Parties.

The reason for the choice of this topic was our interest in addressing the social sector and the rights associated with it. We have also decided to examine and process scientifically an almost unknown document, which we have ratified as a country.

Theoretical background

Following the adoption of the European Convention for the Protection of Human Rights and Fundamental Freedoms in 1950, activities within the Council of Europe in the field of human rights concentrated on the drafting of another document. The authors focused on improving the social level and developing the social welfare of the populations of the Member States. This document became the European Social Charter, approved in Turin on 18 October 1961. Its preparation and approval was the result of many years of work. A number of national approaches and views had to be reconciled, stemming from different social and economic conditions.

The adoption of the Charter at international level is considered by Lukas (2014, p.275-288) for expressing national interest and efforts to agree on a certain harmonisation of ways of solving basic social problems. They also wanted to contribute to eliminate or minimise the growth of conflicts that might arise in the area. At the time of the adoption of the Charter of Law, they were enshrined in future objectives rather than existing standards of economic and social rights in most of the Council of Europe Member States. The nature of the provisions of the Charter of 1961 is very different; from declared rights provisions to legal obligations with limited effects. The intention of the authors was to prepare a document that would also be acceptable to economically less developed European countries. For this reason, the original text of the Charter of 1961 contained only a minimum binding standard of economic and social rights. However, it allowed the parties to gradually extend the scope of their commitments to include others according to their current economic and social conditions.

As stated by the European Court of Justice (1974), the 1961 Charter is based on the economic and social system of the market economy of the European states. According to them, it comprises a range of social and economic rights, defines the commitment of the Contracting Parties to adopt as an objective their national and international policies pursued by all appropriate means to achieve favourable conditions to ensure the effective exercise of rights and principles. This view is shared by Ewing (2009, pp.384-399) and points out that since 1961, the European Social Charter has given Member States the opportunity to commit to the protection of a significant number of economic and social rights. These rights, together with the civil and political rights contained in the European Convention for the Protection of Human Rights, form part of a single interconnected whole and constitute a programme of efforts for European States.

The European Social Charter from 1961 takes the form of an international treaty. Its legal effects and control mechanisms are less effective than the European Convention on Human Rights because of the nature of social rights contained in the 1961 European Social Charter. Some foreign authors (Brunn et al. 2017, p. 5-8) claim that this is an important document containing a catalogue of economic and social rights of a European standard. The social policy of the Member States aims, in accordance with the Charter of 1961, to seek, by all appropriate means at national and international level, to achieve conditions in which the rights and principles set out in Part I of the Charter of 1961 can be effectively implemented. The parties can selectively accept certain rights contained in the Charter of 1961, but there is a so-called hard core of rights, from which they must accept a minimum number of rights.

In this context, however, Di Turi considers (2018, p.615-627) it should be stressed that the international control system oversees the effective application of the 1961 Charter. This has in many cases improved social legislation, national practice and the real application of European standards. It is a peculiarity of the Charter of 1961 that the Contracting Parties are obliged to pursue its declared objectives by all appropriate means. On the other hand, they do not have to be bound by all articles which contain the definition of individual economic and social rights. The compulsory choice of the articles submitted is intended to ensure that at least fundamental social rights are incorporated into the national systems.

This minimum standard within the Council of Europe was passed by Nolan (2011, p.).343-361) some developments, as the 1961 Charter was amended and revised, which reflected two fundamental facts. The first was to achieve some economic potential and to provide greater social and economic benefits by the signatory states. The second was the full manifestation of weaknesses and shortcomings during the existence of the Charter in the organisation of its control system.

Material and methods

The main objective of the contribution is to analyse the European Social Charter of 1961 and the Revised Charter of 1996 and to review their selected provisions. In addition to the main objective, we have also chosen three milestones, namely:

- identifying the main differences between the 1961 European Social Charter and the 1996 Revised Charter,
- analyse the impact of the 1961 European Social Charter and the 1996 Revised Charter on the status of the selected group of working women,
- evaluate the impact of the case law of the European Court of Justice in relation to the transposition of the Charter into law and application practice.

We want to achieve the chosen objectives, in particular by using international treaties, legislation, technical and scientific literature, as well as the case-law of the European Court of Human Rights.

Given the nature of the article, we apply scientific methods of investigation that result in new knowledge. In particular, we consider the use of the logic method as well as abstraction to be suitable for getting to know the law, without the use of which work, due to its wide scope, could be opaque or chaotic. From the scientific methods of knowledge, we also used an analytical method for analysing legal status and regulation in the article. Using the comparative method, we have sought to make available different views on the European Social Charter, the interpretation of the various institutes, as well as to compare the different versions. Based on scientific knowledge of valid and effective law and legal science, we have also used doctrinal and scientific interpretation in some parts of the work.

The structure of the article, which is divided into three chapters in addition to the introduction, theoretical basis, material and method and conclusion, is also in line with our intention. In the first chapter, we focus on the 1961 European Social Charter and the Protocol that is linked to it. The second chapter is devoted to the Revised Social Charter of 1996 and its control mechanism. In the final, third chapter, we examine the impact of these documents on the specific protection of selected groups of women employed.

Results and discussion

The European Social Charter of 1961 and its systematics

In terms of systematics, the European Social Charter of 1961 consists of a preamble, five parts and an appendix. The preamble contains objectives to be taken into account by the Member States of the Council of Europe. It is about achieving greater unity between Member States, implementing its principles, preserving and fulfilling human rights and fundamental freedoms. Furthermore, Member States declare that the enjoyment of social rights should be ensured without discrimination on grounds of race, colour, sex, religion, political opinion, nationality or social origin (Savet Evrope, 1961).

According to Rataj (2018, p.68-70), the first part consists of rights and nineteen principles recognised by the Contracting Parties as a policy objective. They shall seek to do so by all appropriate means of a national and international nature. The rights and principles contained in it are many. The most important in our view are the right to work, the right to adequate working conditions, the right to safety and health at work, the right to fair

remuneration, the right to organise, the right to collective bargaining, including the right to strike.

The second part of the Charter of 1961 contains the same number of articles as Part I, i.e. 19 articles. This is due to the fact that the rights in the first part are specified in Part II. These are the specific obligations of the Member States in the implementation of individual social rights. According to him, all workers have the right to safe and sound working conditions. These are further specified in Article 3 in Part II, as follows: In order to ensure the effective exercise of the right to safe and sound working conditions, the Parties undertake to lay down regulations on safety and health at work, to take measures to check compliance with these rules and to consult employers' and workers' organisations, where appropriate, measures to improve occupational safety and health.

Part three of the Charter regulates the obligations of the Contracting States, giving them the possibility to make binding only certain rights. However, Article 20(b) of the Charter of 1961 defines the so-called hard core. This means the rights by which each Contracting State must be bound. The rights forming the so-called hard core are: Article 1 – Right to work, Article 5 – Right to organise, Article 6 – Right to collective bargaining, Article 12 – Right to social security, Article 13 – Right to social and medical assistance, Article 16 – Right of the family to social, legal and economic protection, Article 19 – Right of migrant workers and their families to protection and assistance.

From the seven Articles, a Contracting Party had to select at least five articles to which it was bound. Thus, as Lougare states (2015, p.326-354), the Charter therefore opted for an *à la carte* approach, whereby each country must choose a minimum, but in a relatively flexible way, respecting national differences. In addition to these articles, a Contracting Party had to be bound by other articles, with at least ten articles or forty-five numbered paragraphs. A Contracting Party, in addition to articles already binding upon it, may at any time at a later date notify the Secretary-General of the Council of Europe that it shall be considered bound by one or more articles or numbered paragraphs II of Part 1961 of the Charter.

The fourth part of the Charter of 1961 focuses on the control mechanism. Within it, once every two years, the Contracting Parties have sent a report to the Secretary-General of the Council of Europe on the implementation of the provisions of Part II of the Charter of 1961. The form of such a report has been determined by the Committee of Ministers. However, the content of these reports was assessed by the Committee of Experts, which had comments from national organisations on the reports. Its conclusions were transmitted through the Secretary-General of the Council of Europe to the Consultative Assembly, which gave its views on the Committee of Ministers' conclusions. For a two-thirds majority of the participation of authorised and meeting members, this body may send all necessary recommendations to each of the Contracting Parties. What we consider to be a problem, however, is that these recommendations were not legally binding. Nevertheless, we can see from the practice so far that the parties have respected the recommendations and adopted legislative measures many times to remedy the shortcomings identified.

The last part of the fifth part deals with provisions aimed at limiting liability in the event of war or general threats, on the relations of the Charter of 1961 on national law, on international agreements, on the application of collective agreements and on the territorial application of the 1961 Charter (European Court of Justice, 2000).

Additional Protocol to the European Social Charter, 1988

The European Social Charter of 1961 has been amended over the years. To the 1961 European Social Charter, the Member States of the Council of Europe adopted in Strasbourg the Additional Protocol of 5 May 1988, which entered into force on 4 November 1992. The Additional Protocol shall be made up in the same way as the 1961 Charter of the Preamble, the Five Parts and the Supplement.

In the preamble, the Member States which are signatories to this Protocol have decided to extend the protection of the social and economic rights guaranteed by the 1961 European Social Charter.

The first part of the 1988 Protocol lays down the conditions necessary for the effective exercise of these rights. The second part further defines the rights contained in Part One. One article is dedicated to each of these rights. These include the prohibition of discrimination, the right of employees to be informed about the situation in the company and the right to improve the working environment. The specificity of Part Three is that it contains only one article entitled Commitments. These are the obligations necessary for a Member State of the Council of Europe to be considered a party to the 1988 Protocol. The fourth part is dedicated to the control mechanism (Charro, 2017, p.175-187). The Parties shall report on the application of the provisions adopted in Part Two of the Protocol of 1988 in the reports drawn up pursuant to Article 21 of the Charter of 1961. On this basis, we can conclude that the control mechanism of the 1988 Protocol is identical to that of the Charter of 1961.

Protocol amending the European Social Charter 1991

On 21 October 1991, in Turin, on 21 October 1991, the Charter of 1961 adopted the Protocol amending certain provisions concerning the control mechanism in Articles 23 to 29. The Protocol is divided into a preamble and nine articles. In the preamble, Member States declare their decision to improve the control mechanism of the Charter of 1961 and therefore to supplement some of its provisions.

Articles 1 to 6 deal with the interpretation of the 1961 Charter, provisions such as the provision of copies of reports and comments, the assessment of reports, the European Committee on Social Rights, the Government Committee, the Committee of Ministers and the Parliamentary Assembly. These articles by Simpson (2018, p.745-769) replace the articles of the 1961 Charter on the control mechanism with a view to making it more effective, in particular clarifying the competences of the various bodies involved in the control mechanism. They can be understood as ways of interpreting the articles of the 1961 Charter to which they relate.

Article 7 sets out the modalities by which signatories to the Charter of 1961 may be bound by this Protocol, either by signing the ratification, acceptance or approval without reservation or with reservations. It shall be followed by ratification, acceptance or approval. Article 8 provides for the entry into force of the 1991 Protocol. This Protocol shall apply days after the date on which all Parties to the Charter of 1961 have given their consent to be bound by it. This condition implies that the 1991 Protocol has not yet entered into force, but almost all its provisions are applied through the Committee of Ministers.

On the basis of these findings, we can characterise the 1991 Protocol as a document that improves the control mechanism, clarifies the functions of the European Social Rights Committee and the Government Committee.

Additional Protocol to the European Social Charter of 1988 establishing a system of collective complaints, 1995

The Member States of the Council of Europe also amended the 1961 Charter with the Additional Protocol of 9 November 1995 in Strasbourg, which entered into force in 1998. This protocol introduced a new method of control. It consists of a preamble and 16 articles. The preamble contains an expression of Member States' interest to adopt new measures to improve the effective implementation of the social rights guaranteed by the 1961 Charter. In particular, they aim to achieve this objective by establishing a collective complaint procedure that would, inter alia, strengthen the participation of employers' organisations and workers' organisations and NGOs.

The Protocol lays down which organisations have the right to lodge complaints, the actual handling of complaints and the particulars that the complaint must comply with. The complaint shall be in writing and relate to the provision of the Charter adopted by the Contracting Party. The content is also a reservation in which the contracting party against whom the complaint is directed has breached the law. Such a complaint shall be addressed to the Secretary-General of the Council of Europe, who shall submit it to the European Social Rights Committee. It shall set a time limit for the parties concerned to make representations. After examining the documents submitted, explanations and information submitted, the European Social Rights Committee will decide on the content of the complaint. This means expressing its opinion whether the specific law laid down in the Charter has been infringed. If the European Social Rights Committee finds that the Charter has not been implemented satisfactorily by the Contracting Party concerned, the Committee of Ministers shall adopt by a majority of two thirds a recommendation addressed to the Contracting Party concerned. However, such a recommendation is not legally binding according to the European Court of Justice (1995).

The revised European Social Charter of 1996

Following the adoption of the Protocol reforming the control mechanism, a further amendment of the Charter of 1961 was implemented over a number of years. This was due to a need for society as social rights were no longer sufficient in view of national developments.

Efforts to amend the Charter of 1961 eventually resulted in the adoption of a new text of the Charter. In 1996, the Contracting Parties agreed on a revised text of the Charter. The reason for the revision of the text was to keep the Charter up-to-date and responding to current needs and questions. Other provisions were added to the original text. The revised Charter was signed on 3 May 1996, only entered into force on 1 July 1999 (Savet Evrope, 1996).

Like the European Social Charter, the revised European Social Charter is an international treaty that enshrines social rights. According to Swiatkowski and Wujczuk (2018, pp.11-26) is a recognised international legal instrument recognised as equivalent to the European Convention for the Protection of Human Rights and Fundamental Freedoms in the field of fundamental economic and social rights. The revised Charter does not replace or deny the 1961 Charter. This view is based on the fact that the first 19 articles of the Charter of 1961 are transposed and, in some cases, also updated in the Revised Charter. The control mechanism is common to the previous Charter of 1961.

Work on updating the text of the Charter of 1961 has been placed on the agenda of the Charter Rel Committee. There has been an unexpected development. Instead of adopting further protocols to amend or supplement the Charter of 1961, a new text of the Charter was adopted. The revised Charter includes, inter alia, part of the articles of the previous Charter, four articles of the 1988 Protocol, and introduces eight new rights.

The aim of the Revised Charter of 1996 was to enshrine international guarantees of fundamental social and economic rights. The authors took account of developments since the adoption of the original text of the Charter in 1961. The revised Charter is an international treaty that enshrines the rights guaranteed by the original text of the Charter of 1961 and the Additional Protocol of 1988. In addition, it grants new rights and incorporates procedural innovations into its mechanism under the 1991 Protocol and the 1995 Additional Protocol. The control of compliance with the commitments of the Revised Charter is based on the same system of control resulting from the Charter of 1961, the 1991 Protocol and the Supplementary Protocol of 1995, including the system of collective complaints.

Lugarre (2015, p.326-345) however, it is of the opinion that the revision of the Charter was certainly not the last initiative of the Council of Europe and its Member States in the area of social rights. The current socio-economic problems of European countries will force the Member States of the Council of Europe to continue to look for new common ground for improving the quality of life of their citizens. These are not only the most advanced countries in Western Europe, but also those of Central and Eastern Europe, where the problems are much more prominent. The provisions adopted by the Revised Charter are considered (Jimena, 2018, p.14-36) for the Contracting Parties, unquestionable international legal commitments to the protection of human rights. Without this document, European standards of human rights in the economic and social sphere could hardly be established.

In terms of systematics, the revised Charter consists of a preamble, six parts and an appendix. The preamble includes a declaration by the Member States to achieve greater unity among the members of the Council of Europe and to promote their social and economic progress. Furthermore, Member States should bear in mind that the European Social Charter of 1961 and its protocols have agreed to ensure the social rights set out in these documents for

their citizens. In the preamble we can see the background to thinking about changing the text of the 1961 Charter. Here we note that the rights guaranteed by the Charter of 1961 have been included in the Revised Charter to the extent that they have been amended and supplemented. The first part declares thirty-one rights and principles. The first nineteen rights and principles are identical to those contained in the first part of the Charter of 1961. However, they are amended to take into account the new standards. We note that Articles 20 to 23 are identical to Articles 1-4 of the 1988 Additional Protocol. Eight new rights are contained in the revised Charter, namely:

- Article 24 All workers have the right to protection in the event of dismissal,
- Article 25 All workers have the right to protection of their claims in case of insolvency of their employer,
- Article 26 All workers have the right to dignity at work,
- Article 27 Any person who has family obligations and who has or would like to have a job has the right to pursue it without being subjected to discrimination and, where possible, without conflict between employment and family obligations,
- Article 28 Representatives of workers in an undertaking have the right to protection against acts which could harm them and must have advantages enabling them to carry out their tasks,
- Article 29 All workers have the right to information and consultation in the event of collective redundancies,
- Article 30 Everyone has the right to protection against poverty and social exclusion,
- Article 31 Everyone has the right to housing.

The second part contains the same number of articles as the first part. This is the same situation as in the 1961 Charter, where each article in the first part is devoted to one article in the second part. This ensures the effective exercise of the rights contained in Part One by laying down specific obligations relating to individual rights.

Part Three is divided into Articles A and B. Article A provides that each Contracting Party undertakes to treat the first part of the Revised Charter as a statement setting out the objectives and will pursue them by all appropriate means. Like the third part of the Charter of 1961, the third part of the revised Charter enshrines the rights and principles of the hard core.

By comparing the documents, we found that out of the nine articles of the hard core, seven are identical to the hard core of the Charter of 1961. The hard core of the revised Charter is supplemented by Article 7 and 20. We base this view on the fact that a Contracting Party must be bound by at least six of these nine articles. Furthermore, the Contracting Party must undertake a further number of articles and numbered paragraphs of Part Two. The total number of articles and numbered paragraphs to which the counterparty is bound may not be less than sixteen articles or sixty-three numbered paragraphs. As with the Charter of 1961, a Contracting Party may at any time later notify the Secretary-General of the Council of Europe that it shall be considered bound by one or more articles or paragraphs numbered previously unbound (Riekkinen, 2020, pp.49-79).

The penultimate fourth part of the revised Charter is dedicated to the control mechanism. The last part of the fifth part also enshrines the very current intervention of non-discrimination. It is therefore a matter of implementing the rights laid down in this Charter. These must, without exception, be provided without discrimination with regard to race, colour, sex, religion, language, political and other opinions, nationality, social origin, health, membership of a national minority, origin or other status. The Appendix provides for a method of interpretation of discrimination where the difference in treatment based on objective and reasonable grounds is not considered to be a discrimination.

Control mechanism under the revised Charter

As mentioned above, the control mechanism is provided for in Part IV of the Revised Charter. At the outset, however, we consider it necessary to recall that the review mechanism of the revised Charter is identical to that of the Charter of 1961. Every two years, all Contracting Parties shall submit to the Secretary-General of the Council of Europe reports on the implementation of the adopted provisions of Part II of the Revised Charter. The form in which the Contracting Parties are to transmit national reports shall be determined by the Committee of Ministers. Since 2007, a new system has been introduced which introduces annual reporting by 31 October. This new system also introduces the division of provisions into four thematic groups, with titles: 1. Employment, Training and Equal Opportunities, 2. Health, Social Security and Social Protection, 3. Labour rights and finally 4. Children, Family, Migrants.

The national reports on the adopted provisions contain information on the legislation and the practical application of the commitments. If the Committee of Ministers requests a Contracting Party to comment on provisions which it has not adopted, the Contracting Party shall also issue the national report on these provisions. The Committee of Ministers also determines their form in these reports and may also determine on which articles the Contracting Party is to report to the Secretary-General (Charro, 2017, p.175-187).

The national reports and comments are assessed by the European Social Rights Committee and, after consideration, it will draw up a report with conclusions. In the case of reports on the provisions adopted, the European Social Rights Committee shall assess the conformity of national law and practice with the obligations incumbent on a Contracting Party in the Revised Charter. The European Social Rights Committee may request clarification and additional information from the Contracting Party if it is necessary to assess the situation and the practical application of the obligations of the Contracting Party and this information has been omitted in the report. After examining the Contracting Party's national report, the European Committee on Social Rights shall issue its conclusions (Mathis et al. 2017, p. 69).

Implementation and interpretation of the right of employed women to special protection

According to the European Court of Human Rights (1980), it is undeniable that women play an irreplaceable role in human society in the cycle of life. For this reason, it has been and will always be necessary, not only at national, but also at European and international level to adjust the status of women employed and provide them with protection at a certain stage in their lives.

When drawing up the text of the European Social Charter, the contracting States also made sure that the Charter also provided protection for employed women. This right is important to mankind in several ways. The most important thing, however, is the biological factor. This is based on the fact that motherhood generally exhausts a woman and takes a lot of time. For this reason, among others, we can understand the enshrinement of Article 8(1) of the Revised Charter, which provides for the obligation of the contracting party to provide employed women with a total of at least fourteen weeks' leave before and after childbirth in the form of paid leave, with adequate social security benefits or public benefits.

According to Clauwaert (2016, p.405-411), Article 8 of Part 8 of the European Social Charter of 1961 lays down more detailed provisions on women's right to protection. The document grants employed women in the event of maternity and other women employed in selected cases the right to special protection at work. This general provision is further developed in the second part of Article 8. In order to ensure the effective exercise of the right to protection of employed women, the Contracting Parties undertook to ensure that women receive a total of at least 12 weeks of leave in the form of paid leave before and after childbirth by means of appropriate social security benefits or public benefits. Furthermore, the law of the Member States is to be considered illegal if the employer resigns a woman during her absence on the grounds of maternity leave or at a time when the period of notice would have expired at the time of such absence. The States have also assumed a commitment to ensure that breastfeeding mothers are entitled to a sufficiently long break for breastfeeding (Nolan, 2011, p.343-361). Special attention shall be paid to the night work of women in industry as well as to the prohibition of the employment of women by underground working in mines and, where appropriate, to any other work detrimental to them.

The revised Charter not only guarantees these rights but provides for greater protection in its provisions. The Contracting Parties shall undertake:

- ensure that women in employment before and after childbirth receive a total of at least fourteen weeks' leave in the form of paid leave, adequate social security benefits or public benefits;
- to be considered illegal if the employer resigns a woman in a period commencing on the day on which she informed his employer that she is pregnant and ending at the end of her maternity leave or at a time when the period of notice would have expired at the time of such absence;
- ensure that breastfeeding mothers are entitled to breaks of sufficient duration to breastfeeding;
- regulating the night work of pregnant women, women who have recently given birth and women who are breastfeeding their children;
- prohibit the work of pregnant women, women who have recently given birth, and women who are breastfeeding, in underground work in mines and in other dangerous, harmful or difficult work, and take appropriate measures to protect these women's rights in employment.

In our view, the definition of rights under the Revised Charter is clearer, more comprehensible and also changing the beginning of the period of protection. According to the Revised Charter, women's right to protection begins on the day when she announces to her employer that she is pregnant. It's a more favorable wording for a woman. We assume that the

initial charter of 1961 defined the beginning of the period of protection as the absence of a woman in employment due to maternity leave. It is a period of protection when it is illegal for the employer to give her notice (Nosková and Peráček, 2019, p. 44-59).

The third paragraph obliges the contracting States to ensure that breastfeeding mothers are entitled to a sufficiently long break to breast-feeding, which is regulated both in the Charter of 1961 and in the Revised Charter without amendment.

Furthermore, both Charters also regulate night work. While the Charter of 1961 enshrines the obligation to regulate the employment of women at night in industry, the revised Charter goes much further on this issue. Specifically, it specifies the circle of pregnant women, women who have recently given birth and are breastfeeding. The night work of these women is required by the Contracting Party to specify its rules. Similarly, the revised Charter identifies a range of women in terms of underground employment in mines and other dangerous, harmful or difficult work. It applies to women who are pregnant, have recently given birth and are breastfeeding. It is prohibited to employ such women in underground work in mines, hazardous, harmful or difficult jobs.

In short, Article 8 deals with women who are pregnant, women who have given birth, and women who are breastfeeding their children. It is a certain protection for women at work, because it lays down the rules which employers in the parties to the Charter are obliged to observe. We take the view that this right of women in a certain way protects not only women themselves, but the entire population of humanity in a certain way. This view is based on the fact that if women were not protected in the event of pregnancy, this could alter their thoughts and considerations about pregnancy because of fear of losing their job.

According to the European Social Rights Committee, Article 8(1) recognises the right of employed women to maternity leave and maternity financial assistance. The entitlement to maternity leave under the Revised Charter lasts for a minimum period of 14 weeks and must be guaranteed by law. This right must be ensured for all categories of employees. It must also be exclusively referred to as maternity leave, not as leave due to incapacity for work. National legislation can allow women to choose shorter periods of maternity leave. In all cases, however, the compulsory period of leave must be at least six weeks, which the woman concerned may not give up. Financial assistance in maternity must be adequate, while the European Social Rights Committee considers a benefit of 70 % of the salary to be adequate. It adds that, in the case of high salaries, a significant reduction in pay during maternity leave is not in itself contrary to Article 8(3) (Schlachter, 2013, p.105-117).

On Article 8(2) on the prohibition of dismissal in the event of maternity, the European Social Rights Committee has stated that this provision cannot be interpreted as imposing an absolute prohibition. Exceptions could be, for example, in the following cases:

1. if the employed woman has committed misconduct justifying termination of employment,
2. in the event that the employer is wound up,
3. where the period laid down in the employment contract has already expired.

The right of women to have sufficient time to breast-feeding, as provided for in Article 8(3), shall belong to all mothers employed who are breastfeeding their children, including women working at home. Leave reserved for breastfeeding is to be granted during working hours and should be considered as normal working time together with a right to pay. Leave for breast-feeding must be granted at least until the child reaches the age of nine months.

Penultimate paragraph 4, Contracting States have undertaken to adjust the night work of pregnant women, women who have recently given birth and women who are breastfeeding their children. According to the European Social Rights Committee, this article does not require States to prohibit night work for selected groups of women. A Member State may authorise night work but with due regard to working conditions.

Finally, paragraph 5 prohibits employing these women in underground mining and all other risky work almost without exception. Only self-employed women are excluded from this. The prohibition of night work shall also not apply to women who:

1. occupy managerial positions and do not carry out manual work,
2. they work in health and social services;
3. they spend a short period of training in the underground parts of the mines.

Conclusion

An analysis of the European Social Charter from 1961 and the Revised European Social Charter from 1996 have shown that this is an important catalog of economic and social rights. Despite the low interest of legal theorists in researching this topic, we consider its research is necessity. The benefits of our work are also other research results. Based on them, we conclude that the European Social Charter and the Revised European Social Charter are normative treaties. By their significance, these treaties significantly affect the scope of social rights guaranteed in European countries. We are of the opinion that the main significance still lies in the hard core. Based on it, each party guarantees a minimum number of social rights. This ensures a certain minimum of social and economic rights in the Member States.

Another positive aspect of the European Social Charter is that the initial selection of commitments may not be final. It is true that each Contracting Party may take over other articles and numbered paragraphs of the Charter by which it is bound.

The added value of our work is also the analysis of selected court decisions of the European Court of Justice and their application in everyday practice within the extension of social rights. From a practical point of view, the importance of these court decisions as binding sources of law helps individual states to remove possible obstacles in guaranteeing citizens' social rights.

As part of the study, we focused on the right of employed women to protection. We consider this right to be very important in the context of the development of the human population, which has undoubtedly been confirmed to us. We are of the opinion that it is still necessary to provide special protection for women in employment in order to support the reproduction of the population. Although these are women's rights not covered by the hard core of both the original and the revised charters, most parties have enshrined them in their national legislation.

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