



## **INTERNATIONAL ANERKANNTE KERNARBEITSNORMEN IN DER EUROPÄISCHEN UNION**

### **BERICHT FÜR DIE PRÜFUNG DER HANDELSPOLITIK DER EUROPÄISCHEN UNION DURCH DEN ALLGEMEINEN RAT DER WTO**

**Genf, 6. und 8. April 2009**

#### **ZUSAMMENFASSUNG**

Alle 27 Mitgliedsstaaten der Europäischen Union haben alle acht Kernübereinkommen der IAO ratifiziert. In bestimmten Bereichen sind noch gewisse Maßnahmen erforderlich, um die Verpflichtungen, die die Europäische Union in den WTO-Ministererklärungen in den Jahren 1996-2001 in Singapur, Genf und Doha sowie in der IAO-Erklärung über grundlegende Prinzipien und Rechte bei der Arbeit akzeptiert hat, zu erfüllen.

Alle EU-Mitgliedsstaaten haben die beiden wichtigsten IAO-Übereinkommen über die Gewerkschaftsrechte ratifiziert. Im Allgemeinen werden die Gewerkschaftsrechte in den 15 langjährigen EU-Mitgliedsstaaten und in den meisten der zwölf neueren Mitgliedsstaaten sowohl in der Gesetzgebung als auch in der Praxis geachtet. Insbesondere in den neueren Mitgliedsstaaten kommt es jedoch zu Gewerkschaftsrechtsverletzungen, und das Arbeitsrecht entspricht nicht immer den IAO-Übereinkommen. Mängel scheint es hauptsächlich in Bezug auf gewerkschaftsfeindliche Diskriminierung und das Streikrecht zu geben. Einige der älteren Mitgliedsstaaten haben zunehmend legislative Maßnahmen ergriffen, um das Streikrecht trotz der internationalen gesetzlichen Bestimmungen, mit denen dieses Recht verankert ist, einzuschränken. In grenzüberschreitenden Situationen innerhalb der EU hat der Europäische Gerichtshof eine Proportionalitätsbewertung als vorrangiges Kriterium für die Legalität einer kollektiven Aktion eingeführt, was einen Verstoß gegen das Vereinigungsrecht darstellt.

Alle EU-Mitgliedsstaaten haben die beiden IAO-Kernübereinkommen im Bereich Diskriminierung und Lohnleichheit ratifiziert. Sowohl die innerstaatlichen Gesetze als auch die EU-Richtlinien sehen Gleichbezahlung und Gleichbehandlung bei der Beschäftigung vor. In der Praxis kommt es jedoch nach wie vor zu eindeutiger wirtschaftlicher Diskriminierung von Frauen auf dem Arbeitsmarkt. In allen Mitgliedsstaaten bestehen Lohnunterschiede, Frauen sind häufig stärker von Arbeitslosigkeit betroffen und unverhältnismäßig stark in Teilzeit- und geringer bezahlten Tätigkeiten im Dienstleistungssektor konzentriert, während sie in leitenden Funktionen häufig überhaupt nicht vertreten sind. Diskriminiert werden u.a. in Bezug auf die Beschäftigung aber auch ethnische Minderheiten wie die Roma.

**Alle EU-Mitgliedsstaaten haben beide IAO-Kernübereinkommen zur Kinderarbeit ratifiziert, und obwohl Kinderarbeit in Europa nicht weit verbreitet ist, kommt es in den meisten Ländern in gewissem Umfang zu inakzeptabler Ausbeutung von Kindern, hauptsächlich bei informellen Tätigkeiten und in der Landwirtschaft.**

**Alle EU-Mitgliedsstaaten haben beide IAO-Kernübereinkommen zur Zwangsarbeit ratifiziert. Menschenhandel, hauptsächlich mit Frauen und Mädchen, zum Zwecke der Zwangsarbeit und der sexuellen Ausbeutung ist jedoch in gewissem Umfang in praktisch allen Ländern ein Problem. In einigen Mitgliedsstaaten werden Strafgefangene gezwungen, für private Unternehmen zu arbeiten.**

# INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN THE EUROPEAN UNION

## Introduction

This report on the respect of internationally recognised core labour standards in the 27 Member States of the European Union (Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom) is one in the series the ITUC is producing in accordance with the Ministerial Declaration adopted at the first Ministerial Conference of the World Trade Organisation (WTO) (Singapore, 9-13 December 1996) in which Ministers stated: “We renew our commitment to the observance of internationally recognised core labour standards.” The fourth Ministerial Conference (Doha, 9-14 November 2001) reaffirmed this commitment. These standards were further upheld in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work adopted by the 174 member countries of the ILO at the International Labour Conference in June 1998.

This ITUC assessment of core labour standards in the EU has been prepared to coincide with the WTO’s Trade Policy Review of the European Union on 6 and 8 April 2009. It was prepared in consultation with the European Trade Union Confederation (ETUC) and the ITUC’s affiliates in the EU.

The report considers the situation with regard to respect of each of the core labour standards in turn, using a common approach in every case. First, the situation with regard to ratification of ILO conventions in all the 27 Member States is considered. Secondly, more detailed coverage is provided on countries where there is any particular problem – in all cases with regard to Sections 2 (Discrimination) and 4 (Forced Labour) but only in selected cases regarding Sections 1 (Freedom of Association) and 3 (Child Labour).

## I. Vereinigungsfreiheit und Recht zu Kollektivverhandlungen

The ratifications by EU Member States of ILO Convention No. 87 (1948), Freedom of Association and Protection of the Right to Organise, and ILO Convention No. 98 (1949), the Right to Organise and Collective Bargaining, are as follows:

| <b>Country</b> | <b>No. 87</b> | <b>No. 98</b> | <b>Country</b> | <b>No. 87</b> | <b>No. 98</b> |
|----------------|---------------|---------------|----------------|---------------|---------------|
|                | - Year        | Ratified -    |                | - Year        | Ratified      |
| Austria        | 1950          | 1951          | Latvia         | 1992          | 1992          |
| Belgium        | 1951          | 1953          | Lithuania      | 1994          | 1994          |
| Bulgaria       | 1959          | 1959          | Luxembourg     | 1958          | 1958          |
| Cyprus         | 1966          | 1966          | Malta          | 1965          | 1965          |
| Czech Republic | 1993          | 1993          | Netherlands    | 1950          | 1993          |
| Denmark        | 1951          | 1955          | Poland         | 1957          | 1957          |
| Estonia        | 1994          | 1994          | Portugal       | 1977          | 1964          |
| Finland        | 1950          | 1951          | Romania        | 1957          | 1958          |

|         |      |      |                |      |      |
|---------|------|------|----------------|------|------|
| France  | 1951 | 1951 | Slovakia       | 1993 | 1993 |
| Germany | 1957 | 1957 | Slovenia       | 1992 | 1992 |
| Greece  | 1962 | 1962 | Spain          | 1977 | 1977 |
| Hungary | 1957 | 1957 | Sweden         | 1949 | 1950 |
| Ireland | 1955 | 1955 | United Kingdom | 1949 | 1950 |
| Italy   | 1958 | 1958 |                |      |      |

*The section below covers only those EU countries where there is a particular problem regarding implementation of ILO Conventions 87 and 98.*

## **Belgium**

The law provides workers the right to associate freely, including the freedom to organise and to join unions of their own choosing, and workers exercise this right in practice. The right to bargain collectively is also recognised while the law provides for the right to strike. Workers can generally exercise these rights.

However, attacks on the right to strike have been intensified, and legislative authorities have intentionally refrained from defining the scope of the right to strike. This is done by calling into question acts committed in the course of strikes, such as pickets. Civil court judges have often ruled in the employers' favour without giving a hearing to the unions concerned. The European Committee on Social Rights (ESCR) of the Council of Europe finds no statutory safeguards under Belgian law regulating the limits of possible restrictions to the right to strike, which is a violation of trade union rights.

Companies such as Carrefour, Ikea, Eandis and several others have flooded courts with petitions to ban certain forms of strike action, such as picketing. During the last months of 2008, such petitions were submitted practically every week. The case would go to the courts of general jurisdiction, where judges are not specialised in collective labour disputes. Petitions are generally accompanied by requests that these acts be subject to fines if the ban is disregarded. Any union which decides to ignore such a ban - for example, by maintaining picket lines - ends up being heavily penalised. Moreover, the police can be mobilised to disperse trade union pickets.

A "gentlemen's agreement" between the social partners (March 2002) stipulates that the employers would avoid using legal procedures until all conciliation attempts failed, whilst the workers agreed to respect the notice periods required for strikes. While trade unions have honoured their side of the deal since then, the employers have nonetheless persisted in using the courts. Belgian trade unions have called on the Federation of Belgian Enterprises to resolve industrial conflicts by collective bargaining, not by intimidating workers.

According to a study on the legal decisions taken in 2005, the courts generally found that preventing employees or third parties wishing to enter a company building from doing so amounted to an assault, irrespective of whether or not any violence was used. Some judges also agreed to issue "preventive" orders in the absence of any concrete indications that assaults might be committed. These decisions have significantly restricted the right to strike and are considered by the Belgian unions to be in breach of the case law of the ILO Committee on Freedom of Association.

## **Bulgaria**

The law provides for the right of all workers to form or join trade unions of their choice, and workers exercise this right in practice. However, the military are excluded and public servants are covered by a separate law, which recognises their freedom of association. Collective bargaining is allowed and recognised for private sector workers and is practised nationally but it does not always adhere at a local level. The Civil Servants' Act denies the right to collective bargaining for public servants.

Strikes are allowed when negotiations to resolve a collective dispute do not reach agreement - when agreement cannot be reached after resorting to mediation and/or voluntary arbitration, and when the employer does not comply with the process. Public servants, such as military and law enforcement personnel, and civil servants do not have the right to strike; they are only allowed to participate in "symbolic strikes" that means displaying signs, badges or protest banners but not withdrawing their labour. Political strikes are prohibited. Following a decision by the European Committee of Social Rights in 2006, and a collective complaint by two national trade union confederations (CITUB and Podkrepa, both affiliated to ITUC) and the European Trade Union Confederation (ETUC), the government removed the strike ban in the energy, communication and healthcare services, but no changes were made in civil service or the railway sector (a 50% minimum service is required in the event of a strike) where strikes are still banned.

Arcotronics BG factory (city of Kjustendil) tried to sue 286 employees including members of the ITUC-affiliated Confederation of Independent Bulgarian Trade Unions (CITUB) who went on strike in March 2008 to protest non-payment of salaries. According to the management, the strike was illegal. The company has later agreed not to impose disciplinary penalties against workers.

## **Cyprus**

The law provides workers, except for members of the police force and military forces, to legally form and join unions of their own choosing. The right to collective bargaining is covered by law, and workers generally exercise this right. However, collective bargaining agreements are not legally enforceable. The law does not prohibit antiunion discrimination, and unionists emphasise that employers of the private sector are able to discourage union activity because the enforcement of labour regulations is sporadic.

Although the right to strike is provided for, employers have the right to hire replacement workers in the event of a strike, which limits the effectiveness of the right.

## **Czech Republic**

The Charter of Fundamental Rights and Basic Freedoms, which forms part of the Czech Constitution, guarantees the right of everyone to associate freely with others to protect economic and social interests. The law guarantees the right to organise and provides for protection from anti-union discrimination. Foreigners and migrant workers also have the right to organise.

A new Labour Code entered into force in January 2007 and while it was supposed to remove earlier restrictions on freedom of association and enhance the role to collective bargaining, the Constitutional Court in fact repealed several provisions of the 2007 Labour Code, setting trade union rights a few years back.

As a result, the majority trade unions on the enterprise level do not have preferential collective bargaining rights anymore: if there are several trade unions at the workplace and no agreement on bargaining procedure is reached, no collective agreement can be effectively concluded. Further, employers are free to enact unilateral workplace regulations.

The new Labour Code only stipulates the minimum level of workers' rights and the maximum level of the obligations that an agreement should respect. All other aspects of the employment relationship are left to the discretion of workers, employers and their organisations. Collective bargaining in the public sector must take account of budget limitations. There is little scope for negotiation on pay, and paid leave may not be a subject for bargaining.

Strikes are prohibited in certain essential services, such as nuclear energy, oil and natural gas pipelines yet these do not conform to the ILO definition of such services (i.e. that their interruption would endanger the life, personal safety or health of the whole or part of the population). The Act on Collective Bargaining establishes a majority requirement of two-thirds of the votes cast by the workers (subject to the quorum requirement of 50% of workers concerned by the agreement), before a strike can take place. The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has expressed its opinion that although the requirement of a strike ballot is not, in principle, incompatible with Convention 87, the ballot method, the quorum and the majority should not be such that the exercise of the right to strike becomes very difficult or impossible to exercise.

There are reports about anti-union behaviour among companies, for instance hostile attitudes, failure to cooperate with trade unions as provided in the Labour Code and Collective Bargaining Act, and refusal to grant paid time off for trade union representatives for fulfilling their duties.

## **Estonia**

All civil servants and employees in government agencies as well as other state bodies and local governments are denied the right to strike. The ILO, the Council of Europe and even the Estonian Chancellor of Justice (the ombudsman) have criticised this solution, and the government promised to lift the strike ban already eight years ago.

In June 2008, the ILO Committee on Freedom of Association (CFA) adopted a definite report on the respective complaint of the ITUC-affiliated Confederation of Estonian Trade Unions (EAKL). The CFA expected the government to act swiftly on making necessary legislative changes so that the Collective Labour Dispute Resolution Act complies with the ILO standards. The official position is that any changes in the public servants' right to strike would only come with the new Public Service Act (PSA), which would narrow the definition of civil servants and treat most public sector workers as ordinary employees. In January 2009 the Ministry of Justice confirmed that the government coalition planned to keep strike ban for all employees who would remain civil servants under the new PSA.

The EAKL reports that anti-union behaviour is widespread in the private sector despite the fact that anti-union discrimination is prohibited both by the Employment Contract Act and the Trade Union Act. In some enterprises, workers are advised against forming trade unions, threatened with dismissal or a reduction in wages, or promised benefits if they do not join unions. Sometimes so called "yellow unions" are formed.

## **Finland**

Employees have the right to strike, with some exceptions for public sector employees who provide essential services. Public servants whose functions go beyond exercising public power (which in practice means the majority of those in both the state and the municipal sectors, such as teachers, nurses, doctors and so on) do not have the same right to strike as those employed in the private sector.

## **France**

Freedom of association, collective bargaining and the right to strike are fundamental rights enshrined in the French Constitution. However in August 2007 the parliament adopted an Act respecting social dialogue and continuity of the public service in scheduled land passenger transport. Three articles are especially controversial: firstly, a worker must declare his participation in strike at least 48 hours before the strike commences, otherwise he or she may face disciplinary action. Moreover, starting from the eighth day of work stoppage, workers can be asked to vote on continuation of the strike, and this secret ballot can also be initiated by the employer. Finally, in the absence of an agreement that had to be signed before the end of year, the employer itself can determine the minimum services in case of a strike. The ILO CEACR has already criticised the law, and asked the Government to put it in line with Convention 87.

According to the CFDT, there are cases of employers' intervention in trade union elections. Another union centre, the CGT reports that anti-union propaganda is a problem, especially in large enterprises. The CGT reports that trade union leaders and activists are very frequently discriminated against, but unions bring the issues before courts. Trade union activists may face discrimination with disciplinary sanctions being applied or their careers brought to a halt and pressure intensifies during collective disputes.

## **Deutschland**

Das Vereinigungsrecht ist gesetzlich garantiert, aber nur das Recht auf Tarifverhandlungen wird anerkannt. Mindestnormen sind in gesonderten Gesetzen und nicht in einem einzigen Arbeitsgesetz verankert.

Den Beamten im öffentlichen Dienst, einschließlich der Lehrkräfte sowie der Beschäftigten der Post und der Bahn, wird das Streikrecht nach wie vor verweigert. Dies wird bereits seit 1959 von der IAO kritisiert, die die Bundesregierung aufgefordert hat, denjenigen Beamten, die keine Autoritätsfunktion im Namen des Staates erfüllen, das Streikrecht zu gewähren. Darüber hinaus wird Beschäftigten im Beamtenstatus, wie etwa Lehrkräften, auch das Recht auf Tarifverhandlungen verweigert.

Im Jahr 2008 hat das Ruffert-Urteil dazu geführt, dass in den Bundesländern die sog. Tariftreueregelungen außer Kraft gesetzt wurden. Tariftreueregelungen sind Bestimmungen im Vergaberecht, die festlegen, dass öffentliche Aufträge nur an solche Unternehmen vergeben werden, die Tariflohn zahlen. Der Europäische Gerichtshof hat jedoch entschieden, dass bei der öffentlichen Auftragsvergabe nur Arbeitsbedingungen vorgeschrieben werden können, die durch gesetzliche Mindestlöhne oder für allgemein verbindlich erklärte Tarifverträge festgelegt wurden. Dies bedeutet, dass in Deutschland für entsandte Arbeitnehmer/innen ein geringeres Schutzniveau gilt. Das Ruffert-Urteil ist Teil einer Rechtsprechungsserie des EuGH (Viking, Laval, Kommission gegen Luxemburg), in der zum einen die Arbeitnehmerentsenderichtlinie 96/71/EC in eine „Maximalrichtlinie“ umgedeutet wird, die kein höheres Schutzniveau als in der Richtlinie vorgesehen zulässt. Zum anderen werden die wirtschaftlichen Grundfreiheiten von Unternehmen über Arbeitnehmerrechte gestellt.

## **Greece**

Although the law provides for the right to strike, there are some legal restrictions on strikes, including a mandatory notice period of four days for public utilities, and the fact that courts may declare a strike illegal is seen as a deterrent to undertake strikes.

In summer 2008, the parliament passed legal amendments aimed at accelerating appeals hearings on whether or not strikes are legal. According to the new law, when a court declares a strike illegal and this decision is appealed, the head of the Court of Appeals or the President of the Court of Appeal Governing Board must fix the hearing day for the appeal in 48 hours and designate the judges' panel. The verdict must be taken within three days after the hearing. The new law has been criticised, since the criteria for declaring a strike illegal were already too vague, and accelerating the procedure would give even more rights to the judges while restricting trade union autonomy.

## **Hungary**

Collective bargaining is protected by law and is widely practiced. There are, nevertheless, certain obstacles in relation to this right. Section 33 of the Labour Code requires trade unions to represent 65 percent (individually) or 50 percent (jointly) of workers to be able to engage in collective bargaining, which is in excess of ILO standards. New legislation introduced in 2006 that applies to public service gives the right to bargain collectively to trade unions who represent, individually or jointly, at least 25 percent of workforce in a given agency; otherwise the collective agreement must be voted on.

Two national trade union centres, MSZOSZ and LIGA, have reported cases of employers intimidating trade union members, transferring, relocating or dismissing trade union officers, and hindering trade unions from entering the workplace, noting that such violations are repeated year by year.

In November 2008, thousands of public sector workers protested in front of the Parliament after the government announced its intention to curb public servants' bonuses ignoring the collective agreement with public service trade unions. Trade unions were prepared to go on a nationwide strike, but a compromise deal was reached in December 2008.

## **Ireland**

Workers have the right to associate, to organise and to pursue collective bargaining and unions exercise this right in practice, although employers are not required to engage in collective bargaining with employees.

The law provides for the right to strike, however police and military personnel are prohibited from striking. The European Committee of Social Rights has criticised the fact that an employer, under the Unfair Dismissals Act, may dismiss all employees for taking part in a strike.

## **Italy**

The right to strike for employees in essential public services is restricted and requires longer advance notification and precludes multiple strikes within days of each other.

A new bill from Berlusconi's cabinet would limit workers in essential services to "virtual strikes", meaning that they would continue to work normally in the event of a strike but would not get paid. The Italian trade union federation, CGIL, has warned that it is a clear violation to take away the constitutionally guaranteed right to strike. The bill is said to hit particularly the transport sector, where wildcat strikes are often called at the beginning or end of a weekend, not lasting more than 24 hours, as there is no strike pay.

## **Latvia**

The law entitles workers, except for State Security Services and for border guards, to form and join unions of their choice. Workers exercise this right in practice, though it has proven difficult to organise workers in new large industrial companies, in the fishing industry and in commerce, due to anti-union practices by employers. The threshold for forming trade unions, which is at least 50 members or for enterprise-level unions, at least one-fourth of employees, is too high by ILO standards.

Employers' hostility towards trade unions is a growing trend. Some employers are openly soliciting workers to leave trade unions, arguing that collective agreements apply to everybody, and therefore trade union membership is not necessary. The Free Trade Union Confederation of Latvia (LBAS) reported redundancies and outsourcing practices aimed at getting rid of unionised workforce. Violations of existing collective agreements are on the rise, partly due to the difficult economic conditions.

## **Lithuania**

Workers have the right to form and join unions of their choice but unions are required to have at least 30 members or one-fifth of employees in small enterprises to register legally. The law provides protects collective bargaining and provides for the right to strike, except for workers in essential services. Civil servants in the Ministry of Internal Affairs are not allowed to strike, exceeding the ILO definition of essential services where strikes may be restricted.

In June 2008, the parliament amended the labour code, relaxing the strike ballot rules. A strike may be called if approved, in a secret ballot, by at least half of the employees if the strike concerns the whole enterprise, or, if the strike only concerns a particular structural unit, by half of those employed in the said unit. The vote is not required on “token” strikes lasting two hours or less. Solidarity strikes are not allowed.

The ITUC-affiliated Lithuanian Labour Federation (LDF) reports that many employers openly oppose organising. Many leaders of newly established trade unions have to face discrimination, intimidation, harassment, disciplinary action and even dismissals when attempting to organise.

## **Malta**

The law allows workers to form and to join unions of their choice, and workers do so in practice, however non-civilian military and police personnel are not allowed to join a union. The ILO CEACR continues to criticise the Employment and Industrial Relations Act, under which the government can impose compulsory arbitration in the event of an industrial dispute, as contrary to Convention 87.

## **Poland**

The law sets minimum membership requirements for establishing a trade union at 10 persons to form a local union and 30 for a national union. The law, however, does not give trade unions the freedom to exercise the right to organise all workers. For example, workers on individual contracts cannot form or join a trade union and in state-owned enterprises, such as the health and water sectors, there have been cases in which workers had their employment contracts terminated and replaced by individual contracts which prevent them from joining a union.

While many workers exercise their right to unionise, many small and medium-sized firms discriminate against those who attempted to organise a union. The law prohibits antiunion discrimination.

Collective bargaining is a recognised and protected right and all workers have the right to strike except for those in ‘essential services’ – security forces, employees of the supreme chamber of audit, local government, state administration, and uniformed services (such as the police, border guards, and fire brigades) – who only have the right to protest. In terms of ILO conventions, this category is defined too broadly.

The procedures for calling a strike are long and cumbersome. However, a strike can be organised without complying with these procedures if negotiations become impossible due to an employer’s unlawful behaviour, or if the employer fired a trade union official who represented workers in the dispute. A strike is considered a collective refusal to work, and strikes that fall outside this definition are not permitted.

A new legislative reform by the government’s Labour Law Codification Commission is preparing two draft laws to replace the Labour Code: the draft Collective Labour Code and the Draft Individual Labour Code. Both projects have been criticised by trade union experts. The drafts significantly reduce trade union rights on the workplace and introduce the right to lock-out and more rigid rules on legal personality of trade unions.

International and national employers' anti-union attitudes are on the rise; threats and illegal dismissals of trade union activists have occurred on a more frequent basis, according to the forthcoming 2009 ITUC Annual Survey of violations of trade union rights.

## **Portugal**

The right to strike is guaranteed, and the procedures for calling a strike are generally reasonable. Police officers and members of the armed forces are prohibited from striking, although they are allowed to have unions. In March 2008, teacher unions participating in a legal strike against a new teacher evaluation system were harassed by the police and school directors had been ordered to keep a record of the striking teachers.

## **Romania**

The law recognises the right of workers to establish and join the trade union of their choice. This right applies to all workers except high-level government and civil service staff, public prosecutors and judges, as well as military, intelligence and police personnel. These exclusions are too broad. The ILO CEACR has requested that the government amend the legislation to ensure that all workers, except for the armed forces, have the right to form and join the organisations of their choosing.

Collective bargaining is a recognised right under a 1996 law that stipulates that collective agreements are to be renewed every year. The state may not interfere in the collective bargaining process. No sector is excluded by law from collective bargaining. However, collective agreements can only be negotiated in workplaces where there is a minimum of 21 employees.

Public employees may bargain for everything except salaries, which are set by the government. In November 2008, the ILO Committee on Freedom of Association (CFA) reviewed the complaint by the National Education Federation (FEN) and the LEGIS-CCR union pertaining to collective bargaining restrictions in public sector. The government planned to amend the law by specifically excluding basic salary, pay increases, compensations, allowances, bonuses and other staff entitlements. The CFA requested that the government take a much more flexible approach, since public employees should still have the right to bargain collectively on those issues.

The right to strike is recognised by law. However, employees in sanitary services, pharmacies, schools, communications, radio and television, transport and the supply of essential services (gas, electricity and so on) must provide a minimum service of one third of normal activity in the event of a strike. Strikes can only be organised if all means of possible conciliation have failed. The employer must be given 48 hours' notification. According to the law, strikes can only be held to defend the economic interests of the workers and must not be used for political reasons. Strikes can also be declared illegal on the grounds of procedural irregularities. If a strike is declared illegal, the trade union leader can legally be fired, even if the strike is ended immediately after being declared illegal. If a court declared a strike illegal, the union has to pay the damages.

In 2007 the government accepted an ILO technical assistance mission to help addressing the shortcomings of strike legislation. In May 2008, the government signed a memorandum of understanding with the ILO mission to bring the law into compliance with the ILO standards,

particularly to revise a number of confusing or contradictory provisions of the 1999 Labour Disputes Settlement Act.

## **Slovenia**

All workers, except police and military personnel, are free to form and join unions. The law provides for the right to bargain collectively, however it is required by law that ten percent of the workers in an industry sector be union members before collective bargaining can be applicable to a whole sector. Workers have the right to strike, although there are restrictions of this right for certain classes of employees, in both the public and private sectors.

## **Spain**

The law recognises freedom of association; however there are severe restrictions on that right for some categories of workers. Members of the armed forces, Civil Guard, the national police force and some regional police forces are not allowed to join unions, whereas judges, magistrates, and prosecutors, are not free to join unions of their choice. In 2008, the national parliament approved two laws recognising the members of the Civil Guard's right to associate. The law prohibits discrimination by employers against trade union members and organisers; however, unions claim that employers practiced discrimination in many cases by not renewing the temporary contracts of workers in unions.

## **United Kingdom**

The law provides for the right of workers to form and join trade unions of their choice, except those in the armed forces, public sector security services, and police forces. Collective bargaining is protected by law and is freely practiced.

Under the law a strike must be confined to workers and their own employers - secondary picketing is prohibited, and there is no immunity from civil liability for workers taking part in sympathy strikes. The dispute must be wholly or mainly about employment-related matters (for example, pay and conditions) and the decision must be based on a secret ballot of the workers concerned.

In early 2008, British Airways' (BA) decision to start a new subsidiary triggered a dispute with the British Airline Pilots' Association (BALPA). After all means of negotiations were exhausted, pilots voted overwhelmingly on strike action. BA responded that, in case of a strike, it would take legal action against BALPA for unlimited damages on the basis of the Treaty on the European Community. BALPA then went to the High Court to seek a view on the European legislation. This occurred despite two recent decisions of the European Court of Justice (Laval and Viking cases) that gave British judges carte blanche to rule on the legality of a strike. In September BALPA decided to lodge a complaint, later endorsed by the International Transport Federation, before the ILO Committee on Freedom of Association (CFA), since the government had done nothing to clarify the law on strike action.

## ***Conclusions***

*While it is clear that freedom of association and the right to collective bargaining are observed in law and in practice in the majority of EU Member States, it is equally clear that in certain countries difficulties remain. These problems are most marked in some of the Eastern European Member States such as Bulgaria, the Czech Republic, Hungary, Poland and Romania, but also in countries like Germany, and mainly concern insufficient penalisation of anti-union behaviour by employers and the right to strike, particularly in the form of excessively wide definitions of ‘essential services’ where basic trade union rights are restricted.*

*In some of the older EU Member States as well (Belgium, France, Greece, Italy and the United Kingdom), new legislative measures stand to permit additional restrictions to the right to strike – a clear violation of core labour standards.*

*Worryingly, anti-union behaviour is widespread and growing in the private sector and among major international and national employers despite the fact that anti-union discrimination is prohibited in most Member States.*

## **II. Diskriminierung und Gleichheit des Entgelts**

The ratifications by EU Member States of ILO Convention No. 100 (1951), the Equal Remuneration Convention, and Convention No. 111 (1958), the Discrimination (Employment and Occupation) Conventions, are as follows:

| <b>Country</b> | <b>No. 100</b> | <b>No. 111</b>    | <b>Country</b> | <b>No. 100</b> | <b>No. 111</b>    |
|----------------|----------------|-------------------|----------------|----------------|-------------------|
|                | <i>- Year</i>  | <i>ratified -</i> |                | <i>- Year</i>  | <i>ratified -</i> |
| Austria        | 1953           | 1973              | Latvia         | 1992           | 1992              |
| Belgium        | 1952           | 1977              | Lithuania      | 1994           | 1994              |
| Bulgaria       | 1955           | 1960              | Luxembourg     | 1967           | 2001              |
| Cyprus         | 1987           | 1968              | Malta          | 1988           | 1968              |
| Czech Republic | 1993           | 1993              | Netherlands    | 1971           | 1973              |
| Denmark        | 1960           | 1960              | Poland         | 1954           | 1961              |
| Estonia        | 1996           | 2005              | Portugal       | 1967           | 1959              |
| Finland        | 1963           | 1970              | Romania        | 1957           | 1973              |
| France         | 1953           | 1981              | Slovakia       | 1993           | 1993              |
| Germany        | 1956           | 1961              | Slovenia       | 1992           | 1992              |
| Greece         | 1975           | 1984              | Spain          | 1967           | 1967              |
| Hungary        | 1956           | 1961              | Sweden         | 1962           | 1962              |
| Ireland        | 1974           | 1999              | United Kingdom | 1971           | 1999              |
| Italy          | 1956           | 1963              |                |                |                   |

### **Österreich**

Obwohl das Gesetz die Gleichbehandlung von Männern und Frauen vorsieht, ist die Lohnstruktur durch eine eindeutige Diskriminierung weiblicher Beschäftigter gekennzeichnet. Das Durchschnittseinkommen von Frauen beträgt bei gleichwertiger Arbeit lediglich 83% dessen

der Männer. Dieses geschlechtsspezifische Lohngefälle tritt vor allem dort auf, wo Frauen einer befristeten oder einer Teilzeitbeschäftigung nachgehen. Der IAO-Sachverständigenausschuss für die Durchführung der Übereinkommen und Empfehlungen hat der Regierung geraten, monatliche, nach Männern und Frauen aufgeschlüsselte Lohnstatistiken zusammenzustellen.

Frauen sind im Staatsdienst, vor allem in höheren Positionen, weiterhin unterrepräsentiert. Das Gesetz schreibt der Regierung vor, Frauen bei gleicher Qualifikation in allen Bereichen des öffentlichen Dienstes, in denen weniger als 40% der Beschäftigten Frauen sind, Vorrang zu geben. Für den Fall, dass diese Zielgröße von 40% nicht erreicht wird, sind jedoch keinerlei Strafen vorgesehen.

Dem US-Außenministerium zufolge haben Menschenrechtsgruppen berichtet, dass die ethnische Minderheit der Roma in Bezug auf die Beschäftigung und das Wohnungswesen diskriminiert wird. Angaben des Kulturvereins österreichischer Roma zufolge habe sich die Situation der Gemeinschaft der Roma in den letzten Jahren jedoch erheblich verbessert.

## **Belgium**

Women are entitled to the same legal rights as men and yet, the gender pay gap is still significant. In the public sector, a survey conducted by several ministerial departments in 2008 shows that the average annual salary for women was 90 percent of that for men for contracted employees; salaries were equal among statutory civil servants. In the private sector, women workers earned 70 percent of the salaries of their male counterparts among white-collar workers and 79 percent in the blue-collar work force.

Discrimination against older workers has been reported and in higher wage categories. Women holding leading positions in both the private and public sectors have experienced discrimination. According to data from the European Professional Women's Network, women only filled 5.8 percent of the positions on boards of directors of Belgium's leading private companies.

New antiracism and antidiscrimination legislation came into force in 2007 in order to bring the country's legislation in line with prevailing European Union directives. One of the laws identified 18 grounds of possible discrimination subject to legal penalty: age, sexual orientation, civil status, birth, financial situation, religious belief, philosophical orientation, physical condition, disability, physical characteristics, genetic characteristics, social status, nationality, race, colour of skin, descent, national origin, and ethnic origin.

Members of the Muslim community, estimated at 450,000 and principally of Moroccan and Turkish origin, have stated that discrimination against them notably in education and employment exceeded that experienced by other immigrant communities.

## **Bulgaria**

Under Bulgarian law, women have the same rights as men. According to the Ministry of Labour and Social Policy's 2007 statistics, women's salaries were 24 percent lower than men's. To counter the problem, the government has adopted a national plan for equal treatment of men and women.

Discrimination against the Roma minority is widespread and the revised Social Assistance Act of 2008 introduced a limited period of time, 18 months, for granting monthly social assistance to unemployed persons in working age without adequate resources. This revision of law is said to discriminate a national minority that is marginalised, often unemployed and poor and for that the European Roma Rights Centre has filed a complaint against Bulgaria before the European Committee of Social Rights. In late 2008, the Government of Bulgaria decided to further reduce social assistance for unemployed persons to six months; the amendments will not only speed up the process of social exclusion of Roma, especially, but stand to establish different benefits for women and men who are child care providers. Such a change will likely have a clear disparate impact on Roma and a probably discriminatory effect on women.

## **Cyprus**

Women generally have the same legal status as men under family law, property law, and in the judicial system. Women workers continue to be concentrated in certain occupational groups (e.g. sales and services) and remain particularly under-represented among managers and senior officials. Women's labour force participation rate rose from 53.3 percent in 2005 to 54.3 percent in 2006, compared to 73.4 percent for men (73.9 in 2005). The law requires equal pay for men and women performing the same work but the legal framework is not strong enough for manual workers to be effective. The National Action Plan on Gender Equality for 2007-13 seeks to promote equality between men and women in employment and vocational training.

## **Czech Republic**

The Labour Code prohibits discrimination based on gender, sexual orientation, race, nationality, citizenship, social background, family background, language, health condition, age, religion, marital or family status, family responsibilities, political or other conviction, membership of or activity in political parties or movements, trade union or employers' organisations. A new Labour Code in conjunction with the future Anti-Discrimination Act would appear to restrict considerably the protection from discrimination in employment and occupation available under the previous Labour Code, not even providing protection from discrimination on the basis of all the grounds contained in the Convention according to the ILO CEACR.

While Czech legislation requires that all workers receive equal pay for work of equal value, women's salaries are almost 25 percent lower than men's and women are more likely to work in professions with lower median salaries than those chosen by men.

Discrimination against the Roma minority in the Czech Republic continues to take place, and Roma men and women do not have equal access to employment, including self-employment and employment in the public service. Moreover, Roma do not have the same access to state-provided housing as the rest of the Czech population.

## **Denmark**

Despite the fact that Danish law requires equal pay for equal work, the gender pay gap has not changed significantly. In 2007, women earned 22 percent less than men in the private sector, while the wage gap was approximately 16 percent in the local government and 7 percent in the

central government. Much of the difference between men's and women's wages is due to education, job, branch, and labour market experience.

Women are still heavily underrepresented in senior management positions where there were 18 times as many male chief executives as women, whereas approximately only 20 percent of all management positions were held by women.

## **Estonia**

Legislation provides for equal pay for equal work but these rights are not always observed in practice. While the average educational level for women was higher than for men, the average pay gap between women and men was approximately 24 percent, and there continued to be female- and male-dominated professions.

## **Finland**

The Finish government places gender equality high on their agenda and yet, women earn 18 percent less than men for similar work even though the law clearly requires equal pay for equal work.

## **France**

Despite legal requirements of equal pay for equal work, a 25 percent gender pay discrepancy and women's difficulties attaining positions of responsibility are reported in France. Although women make up 57 percent of the public workforce, they are underrepresented in managerial jobs and positions of responsibility; fewer than 20 percent of executives in the private sector were women.

The French union CGT (Confédération Générale du Travail) has filed a complaint against the government of France before the European Committee of Social Rights for discrimination in regards to equal remuneration. The CGT claims that the new regulation on working time introduced in France on 20 August 2008 violates the right to a fair remuneration. Salaried workers are expected to work up to 7 hours a year without receiving any pay and this goes well beyond certain cases where exceptions can be granted because the law applies to the whole working force.

## **Deutschland**

Das Gesetz sieht zwar gleiche Bezahlung für gleiche Arbeit vor, aber Frauen sind in gut bezahlten Führungspositionen unterrepräsentiert und in einigen Niedriglohngruppen überrepräsentiert, so dass sie im Durchschnitt 30% weniger verdienen als Männer. Darüber hinaus beträgt das geschlechtsspezifische Lohn- und Gehaltsgefälle unter den Vollzeitbeschäftigten im gewerblichen Bereich, im Handel sowie in der Finanz- und Versicherungsbranche trotz eines weiterhin rückläufigen Trends laut IAO-Sachverständigenausschuss für die Durchführung der Übereinkommen und Empfehlungen nach wie vor 20%. Der Deutsche Gewerkschaftsbund (DGB) hat Besorgnis angesichts der hohen Konzentration von Frauen in Teilzeitstellen, der überdurchschnittlich vielen Frauen unter den

Langzeitarbeitslosen sowie der Schwierigkeiten von Frauen bei der Rückkehr ins Berufsleben geäußert.

## **Greece**

Official statistics state that women's pay amounts to only 81 percent of men's pay in Greece even though the law provides equal pay for equal work.

Female migrant workers in Greece are often subjected to poverty wages, harsh working conditions and discrimination. Constantina Kuneva, the General Secretary of PEKOP, the Athens-based "All Attica Union of Cleaners and Domestic Workers", was the victim of a murderous attack with sulphuric acid in December 2008 because she exerted her trade union rights in practice. She has lost the use of one eye, her vocal chords and is still hospitalised. She had previously warned in an interview with the ITUC that she felt in grave danger owing to her trade union activities. The investigation procedure into the ferocious attack has been delayed and inadequate and no one has been brought to justice yet.

In February 2009, Greek courts decided that a person living with HIV be paid the indemnities for being illegally fired. The decision was later revoked by the Supreme Court.

Unfortunately, women, migrant workers, Roma and other ethnic minority groups continue to face discrimination in employment. Roma faced discrimination and racist attacks from both representatives of local administrations and society in general.

## **Hungary**

Under the law, women enjoy the same rights as men. But in practice, economic discrimination takes place and women receive lower wages than men for similar work; approximately 11 percent less than men according to recent statistics.

Sexual harassment is now defined and prohibited under the Equal Treatment Act and it also considered a criminal offence (it had previously been a misdemeanour). The ETA (Equal Treatment Authority), which monitors enforcement of antidiscrimination laws, did not report any prosecutions related to sexual harassment. However, sexual harassment has remained a widespread problem that many women tolerate in the workplace because they fear losing their jobs.

To fight discrimination against the Roma community, who constitute at least 4 percent of the population, the government of Hungary has taken measures to promote employment via public works programmes and social integration of the Roma, and established projects that are to promote respect and tolerance among different groups of the population. Roma unemployment is estimated to be three to five times higher than among the non-Roma population.

## **Ireland**

The gender pay gap has not yet been eliminated despite efforts from the Irish government, for example by increasing the minimum wage. Discrimination against women in employment is prohibited, but inequalities persist regarding pay and promotions in both the public and the private sectors.

According to the ILO CEACR, the Pensions Act has been amended in order to provide for the principle of equal treatment and to open the redress and enforcement mechanisms available under the Equal Employment Act to cases relating to equal pension treatment in occupational benefit schemes.

## **Italy**

The wage gap between women and men has decreased over the past ten years but recent numbers from the National Statistical Office still show a difference of 16 percent, irrespective of the type of employment contract. Nevertheless, the gender pay gap is even wider in higher paid categories. According to the European Commission, women were underrepresented in many fields, including management, entrepreneurial business, and the professions.

Women are underrepresented in many fields, including management and entrepreneurial business. From 1993 to 2003, the number of women in executive positions rose from 48,000 to 79,000, a rise of 65 percent. Of the total number of executive positions, women represented 15 percent in 1993 and 23 percent in 2003, according to the ILO.

## **Latvia**

The law prohibits employment discrimination; however, in practice women frequently face hiring and pay discrimination, particularly in the private sector.

The law prohibits work and pay discrimination based on gender and requires employers to set equal pay for equal work; however, government regulatory agencies lack the skills and resources to implement the law fully. Some progress was made during 2008. The Welfare Ministry implemented an awareness-raising campaign that, for example, encouraged primary education teachers to portray more women as professionals and more men as childcare providers.

The UN Economic and Social Council has expressed concern that the law mandating the use of the Latvian language in all dealings with public agencies may discriminate against linguistic minorities, including the Russian-speaking minority (approximately 35 percent of the population).

## **Lithuania**

Despite the fact that government policies require equal pay for equal work, women often earn less than their male counterparts. In 2007 women earned an average of 80 percent of what men earned in comparable jobs; the figure was 78 percent in the public sector. Women were significantly underrepresented at the managerial level.

The law provides possibilities to report ethnic discrimination; however, the sanctions applied in such cases have been insufficient, and victims have received insufficient or no compensation.

## **Luxembourg**

Although the law mandates equal pay for equal work, the wage gap between men and women actually increased from 13.9 per cent in 2003 to 14.3 per cent in 2005.

Recent anti-discrimination legislation prohibits direct and indirect discrimination, *inter alia*, in employment and occupation based on religion or belief, disability, age, sexual orientation, and real or presumed membership or non-membership of a particular race or ethnic group.

## **Malta**

According to law, it is prohibited to discriminate on the grounds of religion, disability, age, sexual orientation and racial or ethnic origin, but current regulations dealing with discrimination do not address equal remuneration between men and women. The ILO CEACR has asked the government of Malta to adopt regulations that give better effect to the principle of equal remuneration for men and women for work of equal value. There have been no reports of violations of the requirement for equal remuneration for men and women workers for equal work and this is criticised because the reporting of no violations often signals a lack of knowledge of the law, or inadequate procedures.

Although women constitute a growing portion of the higher education graduates and the work force, they are underrepresented in management and generally earn less than their male counterparts. The National Council of Women of Malta has reported "extremely low" female representation in the labour force. In the first quarter of 2007, only 35.5 percent of women between age 15 and 65 were employed.

## **Netherlands**

According to the Ministry of Social Affairs and Employment, the remuneration gap between men and women in the private sector is 18 percent. However, when adjusted for level of experience and expertise required for the jobs, the differential is 7 percent.

Various reports referred to by the ILO CEACR have expressed concern about the weakened position of ethnic minorities in society and the apparent decline in efforts to eliminate employment discrimination of ethnic minorities despite the fact that discrimination on the grounds of colour, race and national extraction were more prevalent. There are reports about an increase of negative views concerning the presence of ethnic minorities in society, particularly Muslims.

Labour participation of migrant women is still lagging behind that of women of Dutch origin. Participation is particularly low among Turkish and Moroccan women and women from the so-called new ethnic minority groups (e.g. from former Yugoslavia, Somalia, Iran and Afghanistan).

## **Poland**

The Constitution provides for equal rights regardless of sex and grants women equal remuneration for work of similar value. However, the violation of the principle of equal treatment is not considered an offence; as a consequence, labour inspectors cannot impose fines or refer matters to the court. In practice, women are frequently paid less for equivalent work, mainly hold lower level positions than men and are first to be laid off.

The employment situation of the Roma minority in Poland remains serious. The Ministry of Internal Affairs reported that the unemployment rate is between 54.5 percent and 99.5 percent and that only about 8 percent of the Roma population are working as employees, employers or own-account workers. To counter these problems, the government has initiated programmes in favour of the Roma community in Poland by focusing on vocational training and guidance, as well as the creation of new jobs, including subsidised jobs for members of the Roma minority group. The Ukrainian and Belarusian minorities also continue to experience petty harassment and discrimination.

Sexual harassment is still a serious and underreported problem. According to the NGO Centre for Women's Rights, many victims do not report abuse out of shame or fear of losing their job or withdraw harassment claims in the course of police investigations. However, social awareness of the problem has continued to increase as more cases of sexual harassment are reported by the media. During 2007, the police reported 82 cases of sexual harassment, as compared with 54 cases in 2006.

## **Portugal**

The civil code provides women full legal equality with men. However, in practice women experience economic and other forms of discrimination. Wage differences between men and women continue to exist in the private sector with women earning 76.4 percent of what men earn when taking into account the basic wage along with overtime, bonuses etc. The General Union of Workers (UGT) has reported that despite legal improvements with respect to equal remuneration, the statistics clearly show that women continue to be disadvantaged in the labour market and that affirmative action is necessary to correct the existing wage gap between men and women.

The UGT further reports that despite higher levels of education among women under the age of 24, discriminatory practices still exist with regard to access to employment, salaries and professional development and that unemployment affects women more than men, leading to higher rates of poverty among the female population. Women particularly predominate in traditionally lower paid sectors (for example, services, health and social work, education and hospitality) and job categories requiring lower qualifications.

## **Romania**

The law on equal opportunities for men and women was amended in July 2006 to extend protections to public employees as well as private sector employees. The amended law gives a female employee returning from maternity leave the right to return to her previous or similar positions. In practice, the government has not enforced the provisions on gender equality, nor did authorities focus attention or resources on women's issues. Women have a higher rate of unemployment than men and occupy few managerial positions in the private sector.

The law forbids discrimination based on race, gender, disability, ethnicity, language, or social status, among other categories. However, the government has not enforced these provisions effectively and women, Roma, and other minorities are often subject to discrimination and violence. Most gender discrimination cases before the National Council for Combating Discrimination relate to discrimination in employment, e.g. refusal to offer employment based on age or

pregnancy; retrograding because of pregnancy, dismissal in connection with pregnancy or sexual harassment.

To improve the living and working conditions of the Roma, the government has taken several measures to promote equality of opportunity and treatment in employment and occupation. According to a report from the Open Society Institute from 2007, ethnic Roma were five times as likely to live below the poverty line compared with the majority of the population. Approximately 60 percent of Roma lived in sub-standard housing and without basic services. According to government reports, the number of Roma participants in vocational training was 1,204 in 2006 and a total of 13,810 persons of Roma origin have been employed mainly due to special programmes and initiatives targeting unemployed, such as employment fairs and mobile campaigns reaching out to Roma communities. Yet Roma are frequently absent in better paid or higher level jobs and they remain concentrated in certain fields of activity, such as agricultural work, construction and the fishing industry.

## **Slovakia**

The average salary of women was 77.5 percent in 2005 of that earned by men in comparable jobs. After receiving criticism from the ILO CEACR on the principle of the Convention regarding equal remuneration for work of equal value, the government amended the Labour Code so as it will guarantee “equal wage of men and women for equal work or for work of equal value”. The new Labour Code came into force in September 2007. Nonetheless, the gender pay gap still exists. The law does not prohibit sexual harassment, and there were no statistics available to measure the frequency or the severity of the problem.

The overall situation of the Roma minority is extremely serious (the unemployment rate exceeds 95 percent) and according to the ILO, prejudices against persons belonging to Roma communities continue to be reported. Discrimination against Roma continued in employment, education, health services, housing, and loan practices. It is frequently alleged that employers refused to hire Roma. The government has been asked to work with the social partners in developing a positive action plan aimed at achieving both formal and substantial equality for the Roma; to promote equality in education and employment.

## **Slovenia**

The Constitution prohibits discrimination on various grounds, including race, gender, language and disability. While legislation provides for non-discrimination in employment, some groups continue to face discrimination in employment, including women and Roma.

The gender wage gap has been decreasing the last couple of years but statistics still indicate a wage gap of 7 percent on average. Among skilled workers women earnings are 93 percent compared to those of men and for those with a university degree. Sexual harassment remains a widespread problem. The amended penal code, effective November 1 2008, expanded the prohibition on sexual harassment to cover the entire workforce and not just the civil service.

In practice, organisations monitoring conditions in the Roma community noted in recent years that Roma exclusion from the housing market was a problem and that the Roma unemployment rate was approximately 90 percent. The Slovenian government has implemented spe-

cial programmes aimed at eliminating discrimination against Roma in the labour market, in employment and in education and training within the framework of the Operational Programme for Human Resources Development 2007-13.

## **Spain**

While the law mandates equal pay for equal work, reports continue to show that women's salaries remain 26.3 percent lower than those of their male counterparts. There are fewer women in senior management positions than men.

The law prohibits sexual harassment in the workplace, however harassment was reported to be a problem. According to the Women's Institute, 15 percent of women experienced some kind of sexual harassment during 2006, although only 1 percent asked for assistance; a total of 490 cases of sexual harassment was reported.

The Romani community, which consists of about 600,000 people, experience higher rates of unemployment (5 percent higher than the national average), poverty, and illiteracy than the general population.

## **Sweden**

Women enjoy the same legal rights as men, including rights under family law, property law, and in the judicial system, but some sectors of the labour market still showed significant gender disparities, both in the private and public sectors. In 2007, women's salaries averaged 85 percent of men's salaries, adjusted for age, education, and occupational differences.

Persons of foreign background face grave inequalities regarding access to employment; according to the 2005 Integration Report, only 64 percent of persons born abroad were employed in that year compared to 81 percent of native-born persons, which amounts to a gap of 17 percent.

## **United Kingdom**

Pay differentials between women and men remain in both the private and public sectors. According to an Equal Opportunities Commission report and Government figures from 2005, the wage gap is 22.6 percent in the private sector compared with 13.3 percent in the public sector.

A 2006 report exploring the situation of ethnic minorities in the labour market found that a number of ethnic minority groups, notably Pakistani, Bangladeshi, Black Caribbean and Black African men, continue to experience higher unemployment rates, greater concentrations in routine and semi-routine work and lower hourly earnings. The ILO also reports that despite an improvement over time in the occupational levels of ethnic minorities, the employment situation of Pakistanis and Bangladeshis was a special cause for concern.

## **Conclusions**

*The gap between law and practice in the EU member states in respect to equality between women and men remains wide. In all the member states of the EU gender differences are still pronounced in the labour market. Women in Europe earn generally between 10 and 30*

*percent less than their male counterparts for work of equal value. Women remain underrepresented in senior management posts and they face higher unemployment rates.*

*The continuing, and in some countries increasing, pay differentials between men and women indicate that elimination of the various forms of indirect wage discrimination requires both new legislative and political action.*

*A major concern in many of the Eastern European Member States is the discrimination in employment against the Roma ethnic minority. In some areas unemployment rates for Roma reach 90 percent, and inequalities exist in education and housing as well.*

*Further measures are needed to prevent prejudices and discrimination against ethnic minorities at the workplace, and to prevent and to punish violence against minorities and migrant workers.*

### **III. Kinderarbeit**

The ratifications by EU Member States of ILO Convention No. 138 (1973), the Minimum Age Convention, and ILO Convention No. 182 (1999), the Worst Forms of Child Labour Convention, are as follows:

| <b>Country</b> | <b>No. 138</b> | <b>No. 182</b>    | <b>Country</b> | <b>No. 138</b> | <b>No. 182</b>    |
|----------------|----------------|-------------------|----------------|----------------|-------------------|
|                | <i>- Year</i>  | <i>ratified -</i> |                | <i>- Year</i>  | <i>ratified -</i> |
| Austria        | 2000           | 2001              | Latvia         | 2006           | 2006              |
| Belgium        | 1988           | 2002              | Lithuania      | 1998           | 2003              |
| Bulgaria       | 1980           | 2000              | Luxembourg     | 1977           | 2001              |
| Cyprus         | 1997           | 2000              | Malta          | 1988           | 2001              |
| Czech Republic | 2007           | 2001              | Netherlands    | 1976           | 2002              |
| Denmark        | 1997           | 2000              | Poland         | 1978           | 2002              |
| Estonia        | 2007           | 2001              | Portugal       | 1998           | 2000              |
| Finland        | 1976           | 2000              | Romania        | 1975           | 2000              |
| France         | 1990           | 2001              | Slovakia       | 1997           | 1999              |
| Germany        | 1976           | 2002              | Slovenia       | 1992           | 2001              |
| Greece         | 1986           | 2001              | Spain          | 1977           | 2001              |
| Hungary        | 1998           | 2000              | Sweden         | 1990           | 2001              |
| Ireland        | 1978           | 1999              | United Kingdom | 2000           | 2000              |
| Italy          | 1981           | 2000              |                |                |                   |

*The section below covers only those EU countries where there is a particular problem regarding implementation of ILO Conventions 87 and 98.*

#### **Bulgaria**

The Labour Code sets the minimum age for employment at 16 years, but children between 13 and 16 years of age may engage in light work and perform certain jobs with the approval of the Government. Children under 18 years of age are prohibited from hazardous work, overtime, and night work. However the Council of Europe points out that the labour legislation regarding young workers is not effective. Few official statistics on child labour are available; a national survey in 2000 revealed that 6.4 percent of the 5-17 years age group were economically active, another 3.2 percent declared to be engaged in family business, and another 41.8 percent were involved in domestic work.

Children are reported to be engaged in the commercial and service sectors, in agriculture, forestry, transportation, communications, industry, and construction. According to the ILO, children's workdays often exceeded the seven-hour legal maximum, they suffer from work-related health problems and sometimes they have not receive overtime pay for additional hours worked. Moreover, local NGOs have reported that children also work on farms for meagre monetary or in-kind wages, such as food, and that children in institutional care often seek modestly paid agricultural labour during periods when they are allowed out of residential facilities.

The worst forms of child labour have been reported to occur occasionally. Children have also been employed in heavy physical and hazardous jobs on family tobacco farms, particularly among the ethnic Pomak and Turkish minority.

Widespread poverty has led many Roma children to turn to begging, prostitution, and petty crime on the streets.

The National Programme for Child Protection 2008 in Bulgaria was passed by the Government in May 2008 and targets street child labour and trafficking in children via awareness-raising for prevention of street child labour and trafficking in children, monitoring street child labour and trafficking in children.

## **Cyprus**

The minimum age for employment in industrial work is 16 years, but children may be employed in apprentice positions at the age of 15. The government has effectively enforced the laws and policies to protect children from exploitation in the workplace. However, it is common for children to work in family run shops after school, and, in the Turkish community, children as young as 11 years have worked in orchards during school holidays.

## **Czech Republic**

The government of the Czech Republic ratified ILO Convention No. 138, the Minimum Age Convention in 2007. The Labour Code sets the minimum age for employment at 15 years, although children with disabilities who have completed special training may work at the age of 14. The Labour Code also requires that young persons between the ages of 15 and 18 receive special care and protection. Overtime and night work is prohibited for minors.

In recent years, government reports indicate that child prostitution and trafficking of children for commercial sexual exploitation have been a growing problem.

## **Estonia**

Estonia ratified ILO Convention No. 138, the Minimum Age Convention in 2007. The law sets the minimum age for employment at 18 years, although children aged 15 to 17 may work with the consent of a parent or guardian, and children aged 13 to 15 may work with the consent of a parent or guardian and a labour inspector.

By law, the sale or purchase of children is prohibited but legal provisions prohibiting the trafficking of children for labour or sexual exploitation are missing from the Penal Code. The ILO CEACR requests that the government bring legislation into conformity with the Convention, which clearly states that “the trafficking of children constitutes one of the worst forms of child labour, and shall therefore be prohibited for children under 18”.

## **Greece**

The Greek government has implemented laws and policies to protect children from exploitation in the workplace. However, the protection of children employed in family businesses or agriculture is not adequate and many children have been engaged in abusive child labour, although the number of working children has been decreasing in recent years.

The minimum age for employment in the industrial sector is 15 years, with higher limits for some activities. The minimum age for employment is 12 in family businesses, theatre and the cinema which in itself is a violation of ILO Convention No. 138. Families who engage in agriculture, food service, and merchandising have often been assisted by younger family members on at least a part-time basis. For the year 2005, a total number of 34 cases of illegal employment of minors were detected, out of which 29 employers were fined and five charged.

Trafficking of children for the purpose of forced labour or sexual exploitation is a problem. The majority of children trafficked for begging and stealing are of Albanian and Roma descent. In 2006, Greece signed a bilateral agreement with Albania against trafficking in children, but has not yet ratified it.

## **Hungary**

The law protects children from exploitation in the workplace. Children under 16 are prohibited from working, except under certain conditions, such as temporary work during school vacations for those between 14 and 16. Children may not work night shifts or overtime, or perform hard physical labour.

Trafficking of children for sexual exploitation has been reported a problem. An action plan was issued in 2005 for the law enforcement bodies of the Ministry of the Interior on their tasks in preventing, reducing and assisting victims of human trafficking with special attention to children.

## **Italy**

Italian law prohibits the employment of children under the age of 15, and there are specific restrictions on employment in hazardous occupations for males under 18 and females under 21. Enforcement of these laws has been generally effective in the formal economy, however the

enforcement of minimum age or other child protection laws has been difficult in the extensive informal economy.

In its report to the ILO CEACR, the government stated that in 2005 a total number of 1,987 children had been found working irregularly; 433 violations concerned the hours of work. Other cases involved non-compliance by employers with the rules on performance of periodic medical examinations or failure to observe rest periods and holidays.

There is evidence that some of the worst forms of child labour have also occurred. Trafficking of children is a problem with approximately 8 to 10 percent of the trafficking victims believed to be underage. An amendment of the law that prohibits the sexual exploitation of children has increased the penalties if the victim is younger than 16 years of age. At the same time Italy has established a National Centre for combating the commercial sexual use of underage citizens dealing mainly with internet issues and has joined various international endeavours against the worst forms of child labour. A program provides direct assistance for the removal of children from the worst forms of child labour, and another two projects provide a way out for child migrants engaged in prostitution.

## **Lithuania**

The law prohibits exploitation of children in the workplace but statistics from 2007 indicated that 8 percent of working children did so illegally. The problem is mainly concentrated in the agricultural sector, where children sometimes have received unlawfully low compensation. According to a national media, some school-age children performed farm fieldwork without being contracted to and received very little or no payment for their work.

## **Netherlands**

Children in school at the age of 16 may not work more than eight hours per week. The law prohibits persons under the age of 18 from working overtime, at night, or in activities dangerous to their physical or mental well being. However the National Federation of Christian Trade Unions (CNV) has pointed out that young people under 16 years are involved in high-risk activities, such as cutting, sawing, heavy loads and hazardous materials despite the fact that the minimum age for employment is 16 years.

The trafficking of children for commercial sexual exploitation has been reported. To combat the worst forms of child labour and trafficking in human beings, the government has initiated a national plan of action and adopted the Directive on Human Trafficking, which also devotes special attention to under-age victims of human trafficking and describes procedures on handling them.

## **Poland**

The law protects children from exploitation in the workplace and the government has generally enforced the law in practice. However, the State Labour Inspectorate (PIP) has reported that an increasing numbers of minors worked, and that many employers underpaid them or paid them late.

## **Portugal**

The minimum working age in Portugal is 16 years. Minors over 16 are legally entitled to be employed for light work, and under many conditions their employment is also required to include a strong component of education and training.

Instances of child labour have been reported but the overall incidence has been small and concentrated geographically and by sector. The greatest problems have been reported in Braga, Porto, and Faro, and tended to occur in the clothing, footwear, construction, and hotel industries. However, the ILO CEACR has observed that the number of working children has been declining significantly in recent years.

The CGTP (Confederação Nacional dos Trabalhadores Portugueses) states that the national legislation is still not in conformity with the Convention because it authorises night work of young persons aged 16 and over in unspecified sectors of activity. The UGT (União Geral de Trabalhadores) has indicated that very often the conditions in which night work is undertaken may jeopardise the physical and psychological development of young persons or their school attendance. A number of employers appear to make use of child labour, especially at home, which constitutes a way of evading labour inspection.

Portugal has implemented a Plan for the Elimination of Exploitation of Child Labour.

## **Romania**

Child labour remains a serious problem. Although the Law on Child Rights Protection entered into force in January 2005 and addresses the prevention and elimination of the worst forms of child labour, including trafficking in children, the government has not consistently enforced the measure in practice. Enforcement has tended to be negligent and there have been no reports of anyone being charged or convicted during the year under any of the child labour laws. Employers who violated child labour laws have generally been fined but judges did not consider these violations to be crimes.

Child labour, including begging, selling trinkets on the street, or washing windshields, remained widespread in Romani communities; children engaged in such activities could be as young as five years old.

To combat child labour, Romania has established monitoring mechanisms and three national plans, including the police and the trade unions and various state agencies in their implementation. The Government participated in ILO/IPEC program, PROTECT-CEE.

## **Slovakia**

The minimum age for employment is 15, and education is free and compulsory until the age of 15, although this is not enforced in the Roma community. There are, however, isolated reports that children have been engaged in begging and forced into prostitution in some communities.

## **Slovenia**

The minimum age for employment is 15 years. The law, moreover, limits working hours and sets occupational health and safety standards for children. However, younger rural children often work during the harvest season and on other farm chores.

Trafficking in children for sexual exploitation is a problem but the government has taken a number of measures to combat the abuse effectively and to ensure that victims are rehabilitated and socially reintegrated and eventually returned to their country of origin if necessary.

## **Spain**

The minimum age for child employment is 16 years. Enforcement of this minimum age is effective in major industries and services, however on small farms and in family businesses child labour exists.

The government and various social partners under the National Action Plan (2006-09) have taken several measures to combat the sexual exploitation of children and young persons for commercial ends. According to government information, the associations ECPAT-ESPAÑA (a network of organisations and individuals working together to eliminate the commercial sexual exploitation of children) and FAPMI (Federación de Asociaciones para la Prevención del Maltrato Infantil) and the Sol Meliá and Barceló hotel groups have signed the ECPAT International code of conduct to protect children against sexual exploitation in tourism and the travel industry.

## **United Kingdom**

The law prohibits employment of children under the age of 13 in any capacity. Children aged 13 to 16 years may work as part of an educational course provided that it does not interfere with school attendance. The authorities generally enforce these laws effectively.

However there are problems of economically active children in certain localities; in North Tyneside, UNICEF-UK found that 25 percent of working children were below the age of 13. Child labour occurs because of the vagueness created by the plethora of European directives, national laws and local by-laws that dictate how and when children should work. There is no minimum wage set for working children. The Trades Union Congress (TUC) has criticised the complexity of many relevant legislative provisions on work permitted for school-age children and stressed the need for simplification.

There are reports that children have been trafficked into the country and forced to work as domestic servants, beggars, pickpockets, drug couriers, or in sweatshops and restaurants. Children have also been subject to sexual exploitation. Reports suggest that at least one thousand children are estimated to be sexually exploited each year in London alone. Although the TUC indicates that there were no accurate and reliable data in existence within the United Kingdom regarding the trafficking of children, the number of children involved in prostitution or in hazardous occupations remains a problem.

Additionally according to UNICEF UK's 2005 Report "End Child Exploitation - Child Labour Today" the UK government formally ratified in 2003 the United Nations Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,

reserving the UK's right to deploy underage soldiers where there is a "genuine military need". The UK has the lowest age of recruitment among European states and it is estimated that 6,000-7,000 soldiers under the 18 years of age are currently serving in the UK armed forces. This practice violates the spirit – but not the wording - of ILO Convention No. 182.

### **Conclusions**

*The economic exploitation of children is a problem in the European Union. While child labour is not widespread, unacceptable exploitation occurs in numerous EU Member States, mainly in informal work, in agriculture and family businesses. Violations of the minimum legal working age, working hours and proper remuneration have also been found in formal employment relationships, notably in Bulgaria, Italy, the Netherlands, and Romania.*

*There are serious problems of children being victims of trafficking and forced into sexual exploitation and begging in many parts of the EU; particularly vulnerable groups are Roma and other minority groups.*

### **IV. Zwangsarbeit**

The ratifications by EU Member States of ILO Convention No. 29 (1930), the Forced Labour Convention, and ILO Convention No. 105 (1957), the Abolition of Forced Labour Convention, are as follows:

| <b>Country</b> | <b>No. 29</b><br>- Year | <b>No. 105</b><br>ratified - | <b>Country</b> | <b>No. 29</b><br>- Year | <b>No. 105</b><br>ratified - |
|----------------|-------------------------|------------------------------|----------------|-------------------------|------------------------------|
| Austria        | 1960                    | 1958                         | Latvia         | 2006                    | 1992                         |
| Belgium        | 1944                    | 1961                         | Lithuania      | 1994                    | 1994                         |
| Bulgaria       | 1932                    | 1999                         | Luxembourg     | 1964                    | 1964                         |
| Cyprus         | 1960                    | 1960                         | Malta          | 1965                    | 1965                         |
| Czech Republic | 1993                    | 1996                         | Netherlands    | 1933                    | 1959                         |
| Denmark        | 1932                    | 1958                         | Poland         | 1958                    | 1958                         |
| Estonia        | 1996                    | 1996                         | Portugal       | 1956                    | 1959                         |
| Finland        | 1936                    | 1960                         | Romania        | 1957                    | 1998                         |
| France         | 1937                    | 1969                         | Slovakia       | 1993                    | 1997                         |
| Germany        | 1956                    | 1959                         | Slovenia       | 1992                    | 1997                         |
| Greece         | 1952                    | 1962                         | Spain          | 1932                    | 1967                         |
| Hungary        | 1956                    | 1994                         | Sweden         | 1931                    | 1958                         |
| Ireland        | 1931                    | 1958                         | United Kingdom | 1931                    | 1957                         |
| Italy          | 1934                    | 1968                         |                |                         |                              |

### **Österreich**

Es kommt zum Handel mit Frauen zum Zwecke der Prostitution und für häusliche Tätigkeiten. Österreich fungiert sowohl als Transit- als auch als Zielland für weibliche

Prostituierte aus osteuropäischen Ländern. Zudem werden Frauen aus Asien und Lateinamerika für häusliche Tätigkeiten gehandelt. Aus jüngsten Berichten des US-Außenministeriums geht hervor, dass es nach wie vor zum Handel mit Roma-Kindern aus Bulgarien und Rumänien nach Österreich kommt, dass die Zahl der Kinder jedoch seit 2006 infolge der Zusammenarbeit der Regierung mit Rumänien und Bulgarien bei der Einrichtung von Krisenzentren für die betroffenen Kinder erheblich zurückgegangen ist.

## **Belgium**

Belgium continues to be a transit country for men, women, and girls trafficked for the purpose of economic and sexual exploitation. In 2007 prosecutors handled 418 trafficking cases, including 219 economic exploitation and 168 sexual exploitation cases. The federal judicial police handled 196 trafficking files, compared with 184 in 2006.

## **Bulgaria**

Despite the fact that the constitution and law prohibit all forms of trafficking in persons, trafficking remains a serious problem. The country remains a point of origin and transit and, to a lesser extent, a destination, for trafficking, with most victims trafficked for sexual exploitation.

The Bulgarian police has reported an rising tendency in the number of persons being trafficked within the country. Almost all victims were women and girls trafficked for sexual exploitation, but some were also young boys. Minorities, particularly Roma, and women engaged in prostitution were also at particular risk. There are some reports of forced labour, including by children working as beggars or pickpockets.

Forced or compulsory labour is prohibited by law but the ILO CEACR has recently expressed concern that the legal provisions with regard to prison labour may not comply fully with Convention No. 29. In particular, it notes that the Execution of Punishment Act expressly provides for an obligation of prisoners to perform work assigned to them by the prison administration, and imposes disciplinary sanctions for the non-performance of the obligation to work.

## **Cyprus**

Cyprus is primarily a destination point for women trafficked for forced prostitution. For the first time, in 2008 the police reported that labour trafficking had taken place in isolated cases of asylum seekers trafficked for labour in agriculture.

The ILO CEACR has expressed concerns that under the Defence Regulations 79A and 79B for the purpose of maintaining, controlling and regulating supplies and services, the participation in strikes may be punishable with penalties involving compulsory labour.

## **Czech Republic**

The law prohibits all forms of trafficking in persons and forced or compulsory labour. However, trafficking to, from, and within the country for sexual exploitation and forced labour continues to be a problem. There are no exact estimates on the number of victims, but Roma

women are at the highest risk of internal trafficking. Girls raised in state homes are also at particular risk. Forced labour has mostly been reported in the construction and agricultural sectors.

## **Denmark**

The country remains both a destination and a transit point for women and children trafficked from the Baltic countries, Eastern Europe, Southeast Asia, West Africa, and Latin America for the purposes of sexual exploitation.

## **Estonia**

Forced or compulsory labour is prohibited in Estonia. There have been reports that the country is a source, transit point, and a destination for internationally and domestically trafficked women and children for the purpose of forced prostitution.

The ILO CEACR has raised concerns about the legal compatibility of Estonia's compulsory prisoners' work with ILO Conventions No. 29 and No.105.

## **Finland**

The trafficking of women, especially from Russia and the Baltic states, for commercial sexual exploitation occurs in Finland. There are also reports on trafficking of both men and women from Asia to provide forced labour in the construction industry, restaurants, and as domestic servants.

## **France**

The law prohibits forced or compulsory labour, including by children. It also prohibits the trafficking of persons. However, there are reports that women (notably from Africa and Eastern Europe) and children have been trafficked for sexual exploitation, forced domestic labour, and petty crime.

## **Deutschland**

Es kommt in Deutschland zum Handel mit Frauen und Mädchen zum Zwecke der sexuellen Ausbeutung. Der Großteil der betroffenen Frauen und Mädchen stammt aus osteuropäischen Ländern und der früheren Sowjetunion. Die Regierung und die Strafvollzugsbehörden haben im Jahr 2007 689 Opfer des Menschenhandels zum Zwecke der sexuellen Ausbeutung verzeichnet, verglichen mit 775 im Jahr 2006. Die meisten Opfer (419) waren zwischen 18 und 24 Jahren alt; 184 besaßen die deutsche Staatsangehörigkeit. Schätzungsweise 12% waren jünger als 18, darunter 39 deutsche Staatsangehörige. Ein Prozent (sieben Opfer) waren jünger als 14.

Der IAO-Sachverständigenausschuss für die Durchführung der Übereinkommen und Empfehlungen hat die deutsche Gesetzgebung und Praxis wiederholt bezüglich der Arbeit von Strafgefangenen kritisiert. Während einige Gefangene in den Genuss eines freien Arbeitsverhältnisses kommen, werden andere ohne ihre Zustimmung zur Arbeit in Werkstätten

gezwungen, die Privatunternehmen innerhalb staatlicher Gefängnisse betreiben. Dies stellt einen klaren Verstoß gegen Artikel 2(2) (c) von Übereinkommen 29 dar, der ausdrücklich untersagt, verurteilte Gefangene an private Unternehmen zu verdingen oder ihnen sonst zur Verfügung zu stellen. Der Ausschuss hat die Bundesregierung wiederholt aufgefordert, die erforderlichen Maßnahmen zu ergreifen, um eine Bestimmung einzuführen, der zufolge die Gefangenen ihre Zustimmung für Tätigkeiten in privaten Betrieben geben müssen.

## **Greece**

Trafficking of women and girls for forced prostitution is a problem in Greece, with estimates of 13-14,000 women and girls trafficked into the country each year. Most of the victims come from Nigeria, Ukraine, Russia, Bulgaria, Albania, Moldova, Romania, and Belarus. There are reports of men being trafficked for forced labour, including in agricultural work, street vending, and forced begging. The process and criteria of recognising trafficking victims and hence providing for their protection is not compatible with the international practice.

## **Hungary**

The law prohibits forced and compulsory labour and trafficking in persons. However, trafficking in women and girls has remained a problem in Hungary which is a source, transit point, and destination for trafficking, especially young Roma women are at risk. There are also reports of trafficking for domestic servitude and manual labour, particularly for construction work.

## **Ireland**

Ireland is reported to be both a country of transit and destination for a number of trafficked women, primarily for sexual exploitation. In June 2008, a new Human Trafficking Act entered into force; it criminalises trafficking in adults and children for the purpose of labour or sexual exploitation.

## **Italy**

Although the law prohibits all forms of trafficking in persons, trafficking in persons both for agricultural labour and sexual exploitation is a problem. Persons were trafficked to, from, and within the country.

According to NGO sources, approximately 2,800 new victims were trafficked in 2007. The research centre, PARSEC, reported that approximately 500 victims of labour trafficking worked outside the sex industry, mainly in domestic or agricultural labour and in the service sector in 2007. Forced labour occurred primarily in the agricultural sector and mostly in the south where 90 percent of the foreign seasonal workers were unregistered and about two-thirds of them did not hold residence permits. Agricultural workers mostly come from Poland, Romania, Pakistan, Albania, and Cote d'Ivoire.

## **Latvia**

The law prohibits forced or compulsory labour, including by children. It also prohibits trafficking in persons. Nevertheless, there are reports of the trafficking of women and girls for sexual exploitation. Latvia is a source, transit and destination country for trafficking of women and girls.

## **Lithuania**

The Constitution of Lithuania prohibits forced labour and trafficking in persons is prohibited by the Criminal Code. However, Lithuania is a source, transit and destination country for trafficking of women and girls.

## **Luxembourg**

Trafficking of women for the purpose of sexual exploitation takes place despite legislative measures prohibiting all forms of trafficking; most female victims come from Romania and Ukraine.

## **Malta**

Forced or compulsory labour, including by children, is prohibited by law in Malta. The law also prohibits trafficking in persons. However, such practices have been reported and the country is a destination for women trafficked for sexual exploitation.

## **Netherlands**

Trafficking in persons remains a problem in the Netherlands and the country is a destination and a transit point for trafficked persons. In 2007, 716 victims were reported, up from 579 in 2006. Of the 716 victims registered in 2007, 49 were male and 198 were younger than 18; most victims were either from the Netherlands or from Nigeria. The majority of the female victims were exploited in prostitution; others were employed as domestic servants and nine in the catering sector.

## **Poland**

The country is still a source, transit, and destination for trafficked persons, primarily women and girls for the purpose of sexual exploitation, but to a lesser extent, boys and men for forced labour. Most victims of trafficking came from Ukraine, Bulgaria, Romania, Belarus, and Moldova.

The human rights ombudsman has urged the justice minister to incorporate a clear legal definition of human trafficking into the criminal code, something civil rights NGOs have also been criticising.

## **Portugal**

Trafficking of women, children and men from Brazil and Eastern Europe occur in Portugal. The country is both a destination and a transit country, and the majority of victims from Brazil were trafficked for the purpose of sexual exploitation. According to the legislation, all forms of trafficking are illegal. The revised penal code in effect since September 2007 explicitly criminalises labour and sex trafficking and increases penalties for both types of trafficking offenses.

## **Romania**

Trafficking in persons remains a serious problem in Romania. The country is a point of both origin and transit for trafficking in persons. While the majority of trafficking cases involved international trafficking between the country and Western Europe, particularly Italy and Spain, cases of domestic trafficking have also been reported. Victims, primarily women and children, are trafficked for sexual exploitation, labour, and forced begging. In the first 11 months of 2008, the government identified 1,211 victims of trafficking, a smaller number than in the same period of 2007 (1,723), of whom 595 were female and 179 were minors.

There are reports of an increase in the number of victims trafficked for labour and a decrease in those trafficked for sexual exploitation. In 2008, for the first time the number of male victims was higher than that of female victims. Sixty-one percent of the victims came from rural areas and have been trafficked mainly for forced labour or begging.

In October 2008, the National Trade Union Confederation CNS "Cartel ALFA" joined forces with the Ministry of Interior and the Employers Confederation of Industry of Romania to set up an anti-trafficking network.

The Romanian Penal Code foresees the obligation of convicts to perform work, although the government claims that the convicts are actually given the choice as to whether or not they will work.

## **Slovakia**

There have been reports that women and children are trafficked from, within, and through the country; men are also trafficked for forced labour. The International Organisation for Migration (IOM) estimates that between 150 and 200 persons were trafficked from or through the country during 2007, mainly for the purpose of commercial sexual exploitation. There were isolated reports that children were forced into prostitution.

## **Slovenia**

The trafficking of women for sexual exploitation continues to be a problem. Slovenia is mostly a transit and to a lesser extent a destination country for men, primarily for labour exploitation, and women trafficked for commercial sexual exploitation. Trafficking in children, mainly teenage girls, is still a problem.

## **Spain**

Trafficking of women for the purpose of sexual exploitation still occurs. The country is both a destination and transit point. In 2007, official statistics identified 1,035 sex trafficking victims and 445 labour trafficking victims. Women are mainly trafficked from Latin America, Sub-Saharan Africa and Eastern Europe.

## **Sweden**

The country continues to be a transit point, and to a lesser extent, a destination for trafficked women and children. Victims come primarily from the Baltic region, Eastern Europe, Russia and Asia. There have been reports of boys and young men being trafficked to and through the country for the purpose of forced labour, many of them on construction sites. Children were also trafficked for forced begging and petty theft.

## **United Kingdom**

The law prohibits forced or compulsory labour, including by children, as well as trafficking in persons. However, trafficking in persons for the purposes of forced labour and sexual exploitation has remained a problem.

A report from 2008 estimates that between 6,000 and 18,000 women and children were engaged in prostitution involuntarily, the majority of them were trafficked from abroad. Most victims of trafficking are women for the purpose of sexual exploitation. However, women, men, and children are also trafficked for labour exploitation in domestic service, agricultural and rural labour, construction, and catering.

## **Conclusions**

*In virtually all EU countries, trafficking in women and girls for the purpose of forced sexual exploitation is a serious problem, as is forced manual labour, to some extent.*

*The ILO CEACR continues to criticise several EU countries for the practice of obliging prisoners to work for private enterprises in conditions which cannot be assimilated to a free employment relationship, i.e. without their consent, at below national minimum wage levels, and without social security coverage. This breaches provisions of Convention No. 29.*

## Schlussfolgerungen und Empfehlungen

1. In einigen EU-Ländern bestehen nach wie vor Probleme in Bezug auf das Vereinigungsrecht und das Recht zu Kollektivverhandlungen, die bisher noch nicht in Angriff genommen wurden und die weitere arbeitsrechtliche Änderungen in diesen Ländern auf der Grundlage der von den betroffenen Gewerkschaftsdachverbänden formulierten Empfehlungen erfordern. Dies betrifft hauptsächlich das Streikrecht und die Vertretung aller Beschäftigten innerhalb der einzelnen Länder. Ferner gibt es in der Praxis ein weit verbreitetes - und in einigen Ländern zunehmendes - Problem mit gewerkschaftsfeindlicher Diskriminierung, das konkreter angegangen werden muss.
2. Die EU muss das Recht auf grenzübergreifende Sympathieaktionen als integralen Bestandteil des Streikrechts ausdrücklich anerkennen.
3. Es sind Maßnahmen erforderlich, um die geschlechtsbedingte Diskriminierung in den EU-Mitgliedsstaaten in den Griff zu bekommen. Es bestehen nach wie vor deutliche Lohndiskrepanzen, und Frauen sind in Führungspositionen unterrepräsentiert und häufiger von Arbeitslosigkeit betroffen. Zudem sind sie immer stärker in Teilzeitstellen konzentriert. Die Europäische Kommission und die Regierungen der einzelnen Länder sollten für eine wirksamere Umsetzung der Prinzipien Gleichbehandlung bei der Beschäftigung und gleicher Lohn für gleichwertige Arbeit sorgen. Außerdem sind Maßnahmen erforderlich, um indirekte Formen von Diskriminierung zu beseitigen.
4. Die Diskriminierung der ethnischen Minderheit der Roma ist in nahezu allen osteuropäischen Mitgliedsstaaten, aber auch in anderen Ländern, weit verbreitet. Es sollten besser abgestimmte Maßnahmen ergriffen werden, um Diskriminierung zu verhindern und den Zugang der Roma zum Bildungs-, Beschäftigungs- und Wohnungswesen zu verbessern.
5. Es müssen größere Fortschritte erzielt werden, um Kinderarbeit in der Europäischen Union zu beseitigen. In einigen Ländern befinden sich die Gesetze über das Mindestbeschäftigungsalter und den Schutz von Kindern am Arbeitsplatz nicht voll und ganz im Einklang mit den Kernübereinkommen der IAO im Bereich Kinderarbeit. Darüber hinaus sollte die Inkraftsetzung der Gesetzgebung und Politik über formelle Beschäftigungsverhältnisse hinausgehen, da die meisten Rechtsverstöße in Familienbetrieben, landwirtschaftlichen Kleinbetrieben und in der Gastronomie stattfinden.
6. Die wirksame Beseitigung von Zwangsarbeit und sexueller Ausbeutung muss absolute Priorität haben. Da der Menschenhandel für diese Zwecke ein EU-weites Problem ist, ist eine bessere Zusammenarbeit zwischen den Mitgliedsstaaten dringend erforderlich, um sämtliche Formen des Menschenhandels zu beseitigen. In einigen Ländern müssen die Opfer des Menschenhandels dringend besser geschützt und die Täter strafrechtlich verfolgt werden.
7. Einige Mitgliedsstaaten der Europäischen Union lassen es zu, dass Strafgefangene für private Unternehmen arbeiten. Dies stellt einen klaren Verstoß gegen IAO-Übereinkommen 29 dar. Diese Praxis muss eingestellt und die Gesetzgebung muss in Einklang mit Artikel 2(2) (c) des Übereinkommens gebracht werden.
8. Entsprechend den von der EU auf den WTO-Ministerkonferenzen in Singapur, Genf und Doha eingegangenen Verpflichtungen sowie ihren Pflichten als Mitglied der IAO sollte

die EU der WTO und der IAO regelmäßige Berichte über ihre Gesetzesänderungen und die Umsetzung aller Kernarbeitsnormen zukommen lassen.

9. Die WTO sollte die EU auf ihre auf den Ministerkonferenzen in Singapur und Doha eingegangenen Verpflichtungen zur Einhaltung der Kernarbeitsnormen aufmerksam machen. Die WTO sollte zudem die IAO bitten, ihre Arbeit mit der EU in diesen Bereichen zu intensivieren und dem Allgemeinen Rat der WTO anlässlich der nächsten Überprüfung der Handelspolitik einen Bericht vorzulegen.

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*In addition, much information was provided by ITUC affiliates in the European Union, as indicated in the list below, and by the ETUC.*

**ANNEX: AFFILIATED ORGANISATIONS OF THE ITUC IN EUROPEAN UNION  
MEMBER STATES**

| <b>Country</b> | <b>Organisation</b>  |
|----------------|--|
| Austria        | Österreichischer Gewerkschaftsbund (ÖGB)   |
| Belgium        | Centrale générale des Syndicats libéraux de Belgique (CGSLB)<br>Confédération des Syndicats Chrétiens (CSC-ACV)<br>Fédération Générale du Travail de Belgique (FGTB)   |
| Bulgaria       | Confederation of Independent Trade Unions in Bulgaria (KNSB) (CITUB)<br>Confederation of Labour PODKREPA (PODKREPA)  |
| Cyprus         | Democratic Labour Federation of Cyprus (DEOK)<br>Cyprus Turkish Trade Unions Federation (TÜRK-SEN)<br>Cyprus Workers' Confederation (SEK)  |
| Czech Rep.     | Czech-Moravian Confederation of Trade Unions (CM-KOS)  |
| Denmark        | Akademikernes Centralorganisation (AC)<br>Funktionærernes og Tjenestemaendenes Faellesrad (FTF)<br>Landsorganisationen i Danmark (LO)  |
| Estonia        | Confederation of Estonian Trade Unions (EAKL)  |
| Finland        | Confederation of Unions for Academic Professionals in Finland (AKAVA)<br>Suomen Ammattiliittojen Keskusjärjestö (SAK)<br>Finnish Confederation of Salaried Employees (STTK)  |
| France         | Confédération Française Démocratique du Travail (CFDT)<br>Confédération Française des Travailleurs Chrétiens (CFTC)<br>Confédération Générale du Travail (CGT)<br>Confédération Générale du Travail - Force Ouvrière (CGT-FO)<br>Union Interprofessionnelle de la Réunion (UIR-CFDT) |
| Germany        | Deutscher Gewerkschaftsbund (DGB)  |
| Great Britain  | Trades Union Congress (TUC)  |
| Greece         | Greek General Confederation of Labour (GSEE)   |
| Hungary        | Autonomous Trade Union Confederation (ATUC)<br>Democratic Confederation of Free Trade Unions (LIGA)<br>National Confederation of Hungarian Trade Unions (MSZOSZ)<br>National Federation of Workers' Councils (NFWC/MOSZ)   |

|             |  |
|-------------|--|
| Ireland     | Irish Congress of Trade Unions (ICTU)  |
| Italy       | Confederazione Generale Italiana del Lavoro (CGIL)<br>Confederazione Italiana Sindacati Lavoratori (CISL)<br>Unione Italiana del Lavoro (UIL)  |
| Latvia      | Free Trade Union Confederation of Latvia (LBAS)  |
| Lithuania   | Lithuanian Federation of Labour (LDF)<br>Lithuanian Trade Union "SOLIDARUMAS" (LPS" S")<br>Lithuanian Trade Union Confederation (LPSK)   |
| Luxembourg  | Confédération Générale du Travail du Luxembourg (CGTL)<br>Luxemburger Christlicher Gewerkschaftsbund (LCGB)  |
| Malta       | Confederation of Malta Trade Unions (CMTU)<br>General Workers' Union (GWU)   |
| Netherlands | Christelijk Nationaal Vakverbond (CNV)<br>Federatie Nederlandse Vakbeweging (FNV)  |
| Poland      | "Solidarnosc" Niezalezny Samorzadny Zwaiazek Zawodowy (NSZZ)<br>Ogólnopolskie Porozumienie Związków Zawodowych (OPZZ)  |
| Portugal    | União Geral de Trabalhadores (UGT-P)   |
| Romania     | Blocul National Sindical (BNS)<br>CNS Cartel Alfa (ALFA Cartel)<br>Confédération des Syndicats Démocratiques de Roumanie (CSDR)<br>National Confederation of Free Trade Unions of Romania - Fratia (CNSLR-FRATIA)                        |
| Slovakia    | Confederation of Trade Unions of the Slovak Republic (KOZSR)   |
| Slovenia    | -  |
| Spain       | Confederación Sindical de Comisiones Obreras - Acción Sindical Internacional (CC.OO)<br>Eusko Langileen Alkartasuna - Solidaridad de Trabajadores Vascos (ELA-STV)<br>Unión General de Trabajadores (UGT)<br>Unión Sindical Obrera (USO) |
| Sweden      | Landsorganisationen i Sverige (LO)<br>Swedish Confederation of Professional Associations (SACO)<br>Tjänstemännens Centralorganisation (TCO)  |

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