

FORM

for the reports to be submitted in pursuance of the European Social Charter (revised)

Article 5 – The right to organise

With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Contracting Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this Article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.

Information to be submitted

- 1) Please describe the general legal framework. Please specify the nature of, reasons for and extent of any reforms.
- 2) Please indicate the measures taken (administrative arrangements, programmes, action plans, projects, etc.) to implement the legal framework.
- 3) Please provide pertinent figures, statistics or any other relevant information, if appropriate.

Scope of the provision as interpreted by the ECSR

Trade unions and employers' associations must be free to organize without prior authorization, and initial formalities such as declaration and registration must be simple and easy to apply. These organizations must be independent where anything to do with their organization or functioning is concerned. They must be free to form federations and join similar international organisations.

Workers must be free not only to join but also not to join a trade union. Domestic law must guarantee the right of workers to join a trade union and include effective punishments and remedies where this right is not respected. The same rules apply to employers' freedom to organize.

Trade unions and employers' organizations must have broad autonomy where anything to do with their internal structure or functioning is concerned. They are entitled to perform their activities effectively and devise a work programme. Any excessive interference by a State constitutes a violation of Article 5.

Domestic law may restrict participation in various consultation and collective bargaining procedures only to representative trade unions.

Article 5 applies to the public and private sectors. States party are entitled to restrict or withdraw the right of the armed forces to organize. Restrictions may be placed on the right of the police to organise, but they may not be deprived of all their trade union prerogatives.