

Article 24 – Right of workers to protection in cases of termination of employment

With a view to ensuring the effective exercise of the right of workers to protection in cases of termination of employment, the Parties undertake to recognise:

- a. the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;
- b. the right of workers whose employment is terminated without a valid reason to adequate compensation or other appropriate relief.

To this end the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.

Appendix to Article 24

1. It is understood that for the purposes of this article the terms "termination of employment" and "terminated" mean termination of employment at the initiative of the employer.

2. It is understood that this article covers all workers but that a Party may exclude from some or all of its protection the following categories of employed persons:

- a. workers engaged under a contract of employment for a specified period of time or a specified task;
- b. workers undergoing a period of probation or a qualifying period of employment, provided that this is determined in advance and is of a reasonable duration;
- c. workers engaged on a casual basis for a short period.

3. For the purpose of this article the following, in particular, shall not constitute valid reasons for termination of employment:

- a. trade union membership or participation in union activities outside working hours, or, with the consent of the employer, within working hours;
- b. seeking office as, acting or having acted in the capacity of a workers' representative;
- c. the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities;
- d. race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin;
- e. maternity or parental leave;
- f. temporary absence from work due to illness or injury.

4. It is understood that compensation or other appropriate relief in case of termination of employment without valid reasons shall be determined by national laws or regulations, collective agreements or other means appropriate to national conditions.

Information to be submitted

1) Please describe the general legal framework, including decisions by courts and other judicial bodies, if possible. 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

Under Article 24, the following are regarded as valid reasons for termination of an employment contract:

- i) reasons connected with the capacity or conduct of the employee certain economic reasons;
- ii) these must be reasons "based on the operational requirements of the undertaking, establishment or service"

The appendix to Article 24 lists reasons for which it is prohibited to terminate employment.

Prohibition to terminate employment for most of these reasons is also a requirement for conformity with other Articles of the Charter.

Two reasons are examined only under Article 24, namely:

- a. the filing of a complaint or the participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities.

National legislation or case-law must contain express safeguards against retaliatory dismissal.

b. temporary absence from work due to illness or injury. A time limit can be placed on protection against dismissal in such cases.

Any employee who considers him- or herself to have been dismissed without valid reason must have the right to appeal to an impartial body. Employees dismissed without valid reason must be granted adequate compensation or other appropriate relief. Compensation systems are considered appropriate if they include

the following provisions:

- reimbursement of financial losses incurred between the date of dismissal and the decision of the appeal body, the possibility of reinstatement;
- and/or compensation of a high enough level to dissuade the employer and make good the damage suffered by the employee.