

**Joint ILO/UNESCO Committee of Experts on the Application of the
Recommendation concerning the Status of Teachers**

March 1999

**Report on allegations received
from teachers' organizations on
non-observance of the Recommendation**

Contents:

- **Report on allegations received from teachers' organizations on non-observance of the Recommendation**
- **Allegation received from the Czech and Moravian Trade Union of Workers in Education (CMOS PŠ)**
- **Background**
- **Substance of the allegation**
- **Findings**
- **Recommendations**

Report on allegations received from teachers' organizations on non-observance of the Recommendation

1. A communication was received from the Czech and Moravian Trade Union of Workers in Education (CMOS PŠ) in 1997 concerning the non-observance of certain provisions of the Recommendation in the Czech Republic. The communication was deemed properly receivable according to the procedures of the Joint Committee, and was initially examined at the 1997 session. At that time the Joint Committee considered that there had been insufficient time for the Government of the Czech Republic to respond to its request for observations on the allegations. It recommended that the Governing Body of the ILO and the Executive Board of UNESCO: take note that further consideration of the allegations was postponed until such information was provided, or a reasonable time elapsed as set out under the allegations procedures; invite the Government of the Czech Republic to send its observations as soon as possible; and request the Government and the CMOS PŠ to keep the Joint Committee informed of further developments, with such information to be reviewed in accordance with approved procedures.

2. The allegations made by CMOS PŠ in its communication and supporting information relate to provisions of the Recommendation on guiding principles, educational objectives and policies, rights and responsibilities of teachers and conditions for effective teaching and learning (hours of work). A substantial part of the allegations touch upon the alleged failure by the Government to properly consult them in the conception and implementation of proposed changes.

3. The allegations and supporting information and the observations of the Government and the CMOS PŠ were carefully examined by the Joint Committee, whose report on the substance of the allegation, findings and recommendations to the competent bodies of the ILO and UNESCO is set out below.

Allegation received from the Czech and Moravian Trade Union of Workers in Education (CMOS PŠ)

Background

4. By letter dated 23 April 1997 addressed to the Joint Committee, the Czech and Moravian Trade Union of Workers in Education (CMOS PŠ) submitted allegations concerning the non-observance of the Recommendation concerning the Status of Teachers by the Czech Republic with respect to guiding principles, educational objectives and policies, rights and responsibilities of teachers and conditions for effective teaching and learning (hours of work).

5. At the request of the Joint Committee, CMOS PŠ sent additional information by letter dated 30 June 1997, and furnished more supporting material as well as its observations on the information supplied by the Government of the Czech Republic in communications of 28 January and 13 October 1998.

6. At the request of the Joint Committee, the Government of the Czech Republic submitted its observations on the initial allegation and further information supplied by CMOS PŠ by letter of 22 September 1997. The Government sent more information on recent developments and its observations on the further responses by CMOS PŠ in communications of 18 May 1998 and 14 January 1999.

7. The Joint Committee first examined this case at its Fourth Special Session in 1997 (CEART/SP/1997/13, Annex 2).⁽¹⁾ At that time, it considered that there had been insufficient time for the Government of the Czech Republic to respond to its request for observations on the initial allegation and supporting information. It therefore recommended to the Governing Body of the ILO and the Executive Board of UNESCO that they take note that further consideration of the allegations was postponed until such information was provided, and requested the Government and CMOS PŠ to keep it advised as to further developments, with the matter to be reviewed in accordance with approved procedures. Following examination by the Governing Body of the ILO and the Executive Board of UNESCO, the Joint Committee's report was communicated to the Government and to CMOS PŠ in August 1998.

Substance of the allegation

8. CMOS PŠ contended in its communications that Government Decree (No. 68/1997) increased the hours of work of teachers and educators. The Decree supersedes a similar Decree (No. 503/1992) issued in accordance with the relevant legislation (Act No. 143/1992) which authorizes the Government to determine respectively the scope of teaching duties undertaken by teachers and educational activities undertaken by other pedagogical workers and trainers.

9. The Decree was scheduled to take effect on 1 September 1997. It increased the teaching contact hours for most teachers in pre-primary, primary and secondary schools by one to two hours a week, depending on the teachers' function and level of education. Teachers of entry-level classes (1st grade) in primary and special primary and remedial schools faced a reduction of teaching contact hours by up to two or three hours. Sports-school trainers could be required to work up to five additional hours, whereas educators in after-school centres, school clubs, facilities for young delinquents, institutional education and boarding facilities would have the same required hours as in 1972.

10. Teaching contact hours of head teachers in pre-primary boarding schools, rural nursery centres, and other special categories at this level, many primary schools, and most general

and technical secondary schools, and for almost all deputy head teachers, were also increased by one to two hours per week. The contact hours for head teachers in most pre-primary, certain remedial and mixed-level (classes 1-4 and 5-8), and special secondary schools remained the same or were decreased by one to two hours.

11. Other features of the new Decree include more detailed definitions of what constitutes direct teaching contact or educational activity according to the school or institution in which teachers work. Moreover, head teachers and directors of educational centres have been given more latitude in determining the direct teaching contact hours within the framework of certain ranges specified in the Decree. The maximum number of overall hours of work, including preparation for teaching and related school-level activities remains unchanged at 42.5 hours.

12. CMOS PŠ contends that the increase represents an extension of teachers' direct teaching contact hours over that already decided in 1992 on the basis of a 1992 job content analysis. Furthermore, the increase in teaching hours has been made without a corresponding reduction in other duties and activities of teaching personnel, raising the possibility of an increase in working hours as a whole. It is alleged therefore, that the Government's action circumvents the Labour Code's limitations on working hours by progressively increasing direct teaching contact hours, which also includes lesson preparation, student assessment and school paperwork, while remaining silent on the other components of teachers' work. By implication, these are expected to remain the same, resulting in a de facto increase in total hours.

13. CMOS PŠ contests the Government's assumption that the non-teaching components of staff's work can be carried out more efficiently and with less time than previously. The increased complexity of teachers' work in the period of transition to a new social and educational system, including introduction of new curricula, methodologies and technologies, the impact of media and child/youth aggressiveness, drug prevention programmes in schools and widening social differentials among pupils, require more planning and consultation among teachers, especially as more responsibility has been given for decisions on teaching plans at school level. Moreover, the changes are being carried out without a functioning system of further education of teachers, no auxiliary personnel to assume the additional responsibilities, and even reductions in the number of serving teachers.

14. Increasing responsibilities without compensating for this with more staff would have an impact on teaching quality in the following ways according to the teachers' union:

- teachers would divert time from core teaching to less important activities;
- lower staff numbers would make it more difficult to adequately replace absences;
- opportunities for evaluation and preparation of revised or new teaching materials and the introduction of new information technologies would be restricted;
- recruitment into the teaching profession of competent young teachers would become more difficult.

15. CMOS PŠ raises a second major issue: the lack of meaningful participation in determining these and other changes which are set out below. A very short amount of time (two weeks) was allocated to it by the Government for comments on a new second draft of the hours of work proposals in February 1997, and the union's initial comments were not taken into account in the final proposal. CMOS PŠ contends that the lack of consultation with the most representative workers' organization in education is in contradiction with a number of the Recommendation's provisions, and with the Declaration and recommendations of the 45th International Conference on Education (Geneva, 1996).

16. CMOS PŠ also complains of a lack of consultation with respect to a major reorganization of the system of upper secondary schools and higher level professional schools and facilities proposed by the Government, involving criteria for a minimum number of students, mergers and privatization of some schools. CMOS PŠ was not invited to consultations on the development of the programme, nor was it given the opportunity to make observations on the final text of proposals which will impact on the employment and working conditions of a great number of educational sector workers. None of the other major social partners (employers' and workers' organizations, parents' associations, communities) has apparently been invited to consult on these proposals. Central and regional committees set up by ministerial order (No. 4/1997) issued in March 1997 to implement the programme made no provision for the participation or consultation of trade union organizations, employee representatives or other interested parties.

17. According to CMOS PŠ, moreover, there has been no consultation with it regarding instructions from the Ministry of Education to reorganize classes into groups of pupils and to introduce non-compulsory subjects in primary and secondary schools. CMOS PŠ contends that the object of the measure is to reduce small group teaching. The proposed changes have been discussed only with the associations representing primary school directors, teachers, and secondary school directors, comprised of a few hundred directors and subsidized from the ministerial budget.

18. The response received from the Ministry of Education, Youth and Sports of the Czech Republic made the following points. The Ministry has stated in its communications that prior to 1992 teacher contact hours were reduced because of other duties assigned to teachers outside of their normal working hours, including those related to "political engagement" under the previous political system. Act No. 143/1992 authorized the Government to modify the scope of teachers' teaching duties and of other pedagogical workers' educational activities. During 1992, the Government undertook a study of working conditions of teachers and other personnel employed in education, leading it to conclude that the reduction in non-teaching duties had opened up possibilities for increasing the scope of teaching duties. This was accomplished by Government Decree No. 503/1992. In 1996 the Ministry of Education conducted an international comparison of teaching duties based on data from the Organization of Economic Cooperation and Development (OECD). The Government contends that the study showed that time devoted to direct teaching in the Czech Republic was among the lowest of the OECD countries compared. Based on these data and its evaluation of new requirements for managing schools in the context of greater autonomy for individual schools and their directors, the Government implemented Decree No. 68/1997.

19. In concrete terms under the new Decree, school directors had to arrange working time at school within the framework of the determined timetable for working hours, taking account of legal requirements, whereas activities and work performed outside these hours were difficult to determine given the heterogeneous nature of teachers' work. It followed that since Decree No. 68/1997 did not result in a deterioration of education workers' conditions, the Government had no obligation to submit its draft to social partners for comments. It rejected arguments that the modified scope of teaching duties had an adverse impact on students since the number of lessons remained the same.

20. In its comments on the Government's position, CMOS PŠ asserted that the "political instruction" imposed in the former educational system was connected with teaching/learning duties which teachers continue to have under the relevant regulations of the Ministry of Education, No. 16 969/96-42, even if the format and content were different, whereas overall volume of learning is higher. CMOS PŠ cited an opinion of the Institute of State and Law of the Czech Academy of Science that by increasing the volume of direct

teaching time or educational duties, and by implication, associated duties such as preparation and organization of educational activities, the new Decree was tantamount to the imposition of new obligations contrary to the Constitution, and resulted either in an unlawful extension of statutory working time being introduced or teacher preparatory time curtailed, with potentially adverse effects on educational quality. CMOS PŠ moreover took issue with the use of teaching time indicators prepared by OECD because of the methodological difficulties associated with comparing situations in different countries, a view that it insists the Government itself accepted in a foreword to the Czech translation of the OECD report. Information from some schools and regions since the implementation of the new Decree illustrated difficulties in finding suitable replacements for teachers on leave, course scheduling, an increase in unqualified teachers and limits on teachers' professional development. CMOS PŠ concludes by expressing its disappointment with the lack of cooperation between the Government and social partners, and questioned the Government's commitment to social dialogue in a democratic society as a result of its actions.

21. The Government in its further observations pointed out that Decree No. 68/1997 was issued pursuant to previous legislation, in particular Act No. 40/1994, which gave the Government the authority to set teaching duties for teachers. The Decree in question did not increase the duties of teachers nor overall hours, merely the amount of time devoted to direct teaching activity. Decree No. 68/1997 did not violate the Labour Code or any other regulations fixing weekly working hours.

22. The Government also pointed out that it had prepared a proposal for the adjustment of teaching duties to establish a range of the number of hours of direct teaching or other educational activity. Headmasters would have the discretion to allocate the actual number of hours among individual teachers. This proposal was submitted to the CMOS PŠ for comment, as well as other bodies in the state administration and the courts. CMOS PŠ replied, however, that it rejected the new government proposal because it contained a provision which would further worsen teachers' working conditions.

23. In a recent development, the Government noted that the Constitutional Court of the Czech Republic received a motion to nullify the Decree from members of the Czech Parliament, but rejected the motion in April 1998, thereby confirming the Government's constitutional authority to issue Decree No. 68/1997. CMOS PŠ insisted that the Court's decision merely concerned the Government's legal authority to issue the Decree, leaving untouched the substance of the complaint, namely that school directors had to decide on an increased workload for a smaller number of teachers, resulting in overtime without pay. The Government observed that the Constitutional Court did address issues of substance, and that the change between the Decrees of 1992 and 1997 only concerned the relative share of the two parts of teachers' duties (teaching and non-teaching), and this only to a small degree, without exceeding legal working time nor setting new duties. According to the Government, the Court's opinion was based on a view that the definition of what constituted work performance in creative occupations such as the teaching profession could not be determined with precision.

Findings

24. The issues raised by the communication and supporting documentation from CMOS PŠ essentially concern two basic questions in terms of the Recommendation: the proper workload of teachers, especially in relation to the quality of education (paragraphs 8, 89-93); and the participation of teachers and their organizations in decision-making through consultations or negotiation, as appropriate, on issues of workload and school reorganization (paragraphs 9, 10(k), 75-76).

25. On examination, the extension of teaching contact hours by one or two hours for most categories of teachers and deputy heads would not seem to represent a large additional burden in view of the present teaching loads. The increases on the average range from 4 to 10 per cent for teaching staff without responsibilities as heads or deputy heads. Based on the teaching hours per year in public institutions recorded in many member States of the OECD,⁽²⁾ of which the Czech Republic is a member, the increases would still place teachers below the average recorded for these countries. However, the indicator does not provide information about the hours devoted to teaching-related tasks, such as lesson preparation or professional development activities, or general school tasks such as staff meetings or student support. Based on comparisons with a more limited sample of countries published by the ILO in 1996,⁽³⁾ teaching hours at primary level were in the same range as other countries at or above the same national income level, although slightly less than the average range at secondary level.

26. In the absence of any formal increase in overall hours of work required of teachers, the increases in teaching hours under the new Decree would seem to represent a redistribution of workload requirements to core teaching functions, and is to be commended in line with efforts to refocus a larger share of teachers' time on the principal task of teaching. It should be recognized, nevertheless, that any increase in teaching contact hours will almost certainly increase hours necessary for preparation of the extra course work, and evaluation of student's work performed in those hours. This additional work could be substantial and should be properly accounted for in the distribution of overall workload, as proposed in the Recommendation concerning the Status of Teachers, and as reiterated by the Joint Committee in its 1997 report with regard to the extra work associated with curriculum development and change.

27. The Joint Committee notes that certain teachers, notably those in primary school entry level classes, primary school head teachers and educators in certain special schools would maintain or enjoy lower required teaching contact hours. Such differentials may represent compensation for additional other duties or those not previously outlined in workload schedules, but in the absence of more detailed information which would indicate the reasoning behind the differentials the Joint Committee is unable to judge their relative value.

28. The increases are much more significant in percentage terms for head teachers in many pre-primary (nursery), secondary general and vocational schools and for deputy head teachers at virtually all levels. Even if only for one or two hours, when compared with the base teaching hours for heads and deputies, especially in large school situations (15 or more classes or educational groups), the increases are very large. Here again, if designed to refocus hours on core teaching functions, the impact may be considered positive, but the Joint Committee is concerned that such percentage increases would have a more disruptive influence on school management and organization at a time of transition given the nature of additional responsibilities exercised by head teachers and their deputies.

29. Despite the potentially positive outcome to redistributing workload towards core teaching functions, the Joint Committee is preoccupied with the potential for a de facto increase in total hours of work. The potential is heightened by the increasing responsibilities in new pedagogical areas brought on by technological and societal changes, especially acute in a transition society such as the Czech Republic. In this context, given that many of the other responsibilities of teachers are considered part of their normal professional duty under the Recommendation, the increased demands for such activities in a society and school system in transition, and the reported lack of ancillary staff to assume other duties, there is a probability that overall hours will be increased despite the maximum stipulated by the Labour Code, even if not formally required by

hours of presence. If so, the consequences for increased stress and burnout of teachers, already a phenomenon in many countries, lowered educational performance, loss of experienced teachers and difficulties in recruiting qualified young teachers, and constraints on further professional development would be accentuated. Any combination of these outcomes would have negative consequences for educational quality in the Czech Republic.

30. Based on the information presented by the CMOS PŠ and the Government of the Czech Republic, the Joint Committee finds that the Government has not undertaken to fully associate CMOS PŠ in the determination of workload and school reorganization reforms by means of consultation or negotiation, as appropriate to the issue. It should be recalled that the Recommendation emphasizes the role of teachers' organizations in determining educational policy (paragraph 9), and close cooperation between educational authorities, organizations of teachers and other partners, including employers' and workers' organizations, and parents in "defining educational policy and its precise objectives"(paragraph 10(k)). The Recommendation calls for regular consultations with teachers' organizations "on matters of educational policy, school organization, and new developments in the education service" (paragraph 75) to enable teachers to fulfil their responsibilities.

31. The Recommendation (paragraph 89) clearly states that: "The hours teachers are required to work per day and per week should be established in consultation with teachers' organizations." The Joint Committee has periodically called attention to the need to respect this provision in the interests of providing quality education. The Committee regrets that the evidence presented by the CMOS PŠ and Government indicates that the Government has not applied a key provision of the Recommendation. However, the Committee also notes with approval the process of consultation the Government undertook with the CMOS PŠ in connection with the government proposal for adjusting teaching and other educational duties. The Committee further observes that the implementation of Decree No. 68/1997 will effectively rest with headmasters and school directors. It urges the Government to ensure that teacher representatives are associated with the assignment of teaching duties by administrators.

Recommendations

32. The Joint Committee recommends that the Governing Body of the ILO and the Executive Board of UNESCO:

- take note of the situation as described above;
- communicate the above findings both to the Government of the Czech Republic and to CMOS PŠ, requesting that the Government examine means of fully consulting with CMOS PŠ in the implementation of the new working time arrangements stipulated by Decree No. 68/1997, in accordance with all relevant provisions of the Recommendation concerning the Status of Teachers;
- invite both parties to consider drawing on international advice and assistance from the ILO and from UNESCO to improve the application of the provisions of the Recommendation, especially those mentioned above;
- request the Government of the Czech Republic and CMOS PŠ to advise the Joint Committee on further developments and that these should be reviewed at its Seventh Session in 2000.

¹ ILO and UNESCO, *Report, Joint ILO/UNESCO Committee of Experts on the Application of the Recommendation concerning the Status of Teachers* (Paris, 1998)

- ² OECD, *Education at a Glance: OECD Indicators 1998* (Paris, 1998).
- ³ ILO, *Recent developments in the education sector* (Geneva, 1996)