



European
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**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**

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**REPORT
ON THE NON-ACCEPTED PROVISIONS
OF THE EUROPEAN SOCIAL CHARTER**

LITHUANIA

Meeting of 21 June 2011, in Vilnius

Document prepared by the Secretariat

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I. SUMMARY

The meeting with the Lithuanian authorities took place within the framework of the procedure adopted by the Ministers' Deputies in December 2002 concerning the provisions not accepted by the States Parties (Article 22 of the 1961 Charter). The Deputies decided that "states having ratified the Revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned".

In accordance with this decision, five years after ratification of the Revised Charter (and every five years thereafter), the European Committee of Social Rights ("the Committee") reviews non-accepted provisions with the authorities of the state concerned with a view to securing a higher level of acceptance. Experience has shown that governments tend to overlook that selective acceptance of Charter provisions is intended to be transitory. The aim of the new procedure is therefore to require them to review the national situation at regular intervals and encourage them to accept more provisions.

Lithuania ratified the Revised Charter on 29 June 2001 and accepted 86 of the Revised Charter's 98 §s. Lithuania, to this date, has not ratified yet: Article 12§2; Article 13§4; Article 18§§2, 3; Article 19§§2, 4, 6, 8, 12; Article 23; Article 30 and Article 31§ 3.

The meeting on the non-accepted provisions of the Charter was organised in Vilnius on 21 June 2011.

The representatives of the Government provided information in relation to non-accepted provisions of the Charter.

The meeting focused on the actual legislative situation in Lithuania, the situation in practice, and the possible acceptance of some or all above-mentioned articles.

Lithuania also has not accepted the Additional Protocol of 1995 to the European Social Charter providing for a system of collective complaints and the representative of the Committee encouraged the Lithuanian authorities to consider the possibility of acceptance of the collective complaints procedure as a very important tool to guarantee social and economic rights of citizens in a democratic society.

The European Committee of Social Rights proceeded to the examination of the situation on the basis of the information provided by the government during the meeting and in written and herewith delivers its assessment of the situation in relation to the provisions of the Charter not accepted by Lithuania:

Provisions which could be accepted by Lithuania:

Article 12§§2 – Right to social security

Article 13§§4 – Right to social assistance

Article 18§§2, 3 – Right to engage in a gainful occupation in the territory of other parties

Article 19§§2, 8, 12 – Right of migrant workers and their families to protection and assistance

Article 23 – Right of elderly persons to social protection

Article 30 – Right to protection against poverty and social exclusion

Article 31§3 – Right to housing

Provisions with which Lithuania does not seem to comply:

Article 19§§4, 6 – Right of migrant workers and their families to protection and assistance

Article 31§2, 3 – Right to housing

The next examination of the provisions not accepted by Lithuania will take place in 2016.

In view of the conclusions of this report, the Committee wishes to encourage Lithuania to consider accepting additional provisions of the Charter as soon as possible so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights. The Committee uses the opportunity of this Report to draw the attention of States Parties to the Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter (Appendix 3).

ACRONYMS USED IN THE REPORT

Code – the European Code of Social Security

Description – the Description of the Procedure and Conditions for Issuing Work Permits to Aliens

Draft – the Draft Law amending the Law on the Legal Status of Aliens of the Republic of Lithuania

Law – Law on the Legal Status of Aliens of the Republic of Lithuania

Pupils – pupils, who study according to pre-primary, primary, basic or secondary education curricula

SSI – the amount of the state supported income

TRP – a temporary residence permit in the Republic of Lithuania

Article 12§2

Situation of Lithuania:

Although ratification of the European Code of Social Security (hereinafter referred to as the Code) had been scheduled in 2008, the analysis regarding compliance of Lithuanian legislation with the requirements of the Code conducted in 2007 revealed that Lithuania at that time complied with as few as five requirements of the parts of the Code:

- Part II (Medical care);
- Part III (Sickness benefit);
- Part IV (Unemployment benefit);
- Part VII (Family benefit);
- Part VIII (Maternity benefit).

In accordance with the requirements, the above compliance was sufficient for its ratification; however, the decision was made to postpone this ratification issue, since Lithuania failed to comply with Part V (Old-age benefit), which is one of the most important parts in the Code.

The measures implementing the Programme of the Government of the Republic of Lithuania 2008–2012 provide for analysing compliance of Lithuanian legislation with the requirements of the provisions of the Code and submitting proposals to the Government of the Republic of Lithuania regarding the ratification of the Code in the QIV 2012.

Lithuania cannot ratify Article 12§2, since until it is not clear how many requirements of the Code are met and a new analysis regarding compliance of Lithuanian legislation with the requirements of the provisions of the Code is conducted.

Opinion of the Committee:

Article 12§2 obliges states to establish and maintain a social security system which is least equal to that required for ratification of the European Code of Social Security. The European Code of Social Security requires acceptance of a higher number of parts than ILO Convention No 102; six of the nine parts must be accepted although certain branches count for more than one part medical care counts as two parts, and old age counts as three. Each contingency sets minimum levels of personal coverage and minimum levels of benefits.

Where a state has ratified the European Code of Social Security the Committee bases its conclusions under this provision on the Committee of Minister's Resolutions under the Code (which are in turn based on the assessment of the ILO Committee of Experts and the Committee of Experts on Social Security (CS-SS)). Failure to comply with the European Code of Social Security will lead to a conclusion of non-conformity with Article 12§2, where the state is not in compliance with at least the minimum parts for ratification.¹

¹ Conclusions 2006, Italy, p.448.

When the State concerned has not ratified the European Code of Social Security, the Committee makes its own assessment of the social security system in order to decide on the conformity with Article 12§2.²

The Committee considers that according to the information from the national analysis of the situation in 2007, the technical requirements are met. Lithuania would be in a position to accept Article 12§2 if the new findings will indicate a similar result to that of the analysis of 2007.

² Conclusions XIV-1, Finland, p. 223.

Article 13§4*Situation of Lithuania:*

In Lithuania, families with children are provided with support in a form of cash benefits. Low-income families are provided with other types of social assistance (social benefits, compensations for heating, cold and hot water, free meals for children in schools, assistance for pupils in the preparation for school).

The Republic of Lithuania Law on Benefits to Children (Official Gazette *Valstybės žinios*, 1994, No. 89-1706; 2004, No. 88-3208) shall apply to permanent residents of the Republic of Lithuania and aliens residing in the Republic of Lithuania who in compliance with the procedure established by the legislation are appointed as guardians (foster carers) of a child, being a citizen of the Republic of Lithuania, and to children being aliens and residing in the Republic of Lithuania who in compliance with the procedure established by the legislation are placed under guardianship (foster care) in the Republic of Lithuania or the execution of whose guardianship (foster care) is taken over by a competent authority of the Republic of Lithuania.

The citizens of the member states of the European Union moving within the territory of the Community are paid child benefits pursuant to the EU regulations on the coordination of social security systems. Nationals of other foreign states are paid benefits in accordance with international agreements.

The Republic of Lithuania Law on Cash Social Assistance for Poor Families and Single Residents (Official Gazette *Valstybės žinios*, 2003, No. 73-3352; 2006, No. 130-4889) also establishes that the law shall apply to permanent residents of the Republic of Lithuania.

However, it should be noted that, in accordance with the existing legal regulation, persons who are temporarily residing in the Republic of Lithuania are not left without any support. Municipal administrations have the right to allocate cash social assistance from their budgetary resources to persons lawfully residing in the Republic of Lithuania without the right of permanent residence in the Republic of Lithuania.

The Republic of Lithuania Law on Social Assistance for Pupils (Official Gazette *Valstybės žinios*, 2006, No. 73-2755; 2008, No. 63-2382) regulates the right to pupils from low-income families to free meals at school and assistance in the preparation for the school year. The right is granted to all children who study according to pre-primary or general education (primary, basic, secondary or special) curricula at comprehensive schools, vocational schools, pre-school educational establishments or with any other provider of education services (except tutors). Granting of social assistance to pupils is not subject to the status of permanent or temporary residence of the family in Lithuania.

Pursuant to Article 1 of the Republic of Lithuania Law on Assistance in Case of Death (Official Gazette *Valstybės žinios*, 1993, No. 73-1371), a funeral grant shall be paid in case of death of a citizen of the Republic of Lithuania permanently residing in the Republic of Lithuania, in case of death in Lithuania of an alien or a stateless person permanently residing in Lithuania, also in case of death in Lithuania of a person with

the refugee status granted at the procedure prescribed by legislation in the Republic of Lithuania.

It is noteworthy that Council Regulations 1408/71 and 574/72 as amended by Regulations 883/2004 and 987/2009 of the European Parliament and of the Council on the coordination of social security systems are applicable in Lithuania. In accordance with the above legal acts, the EU, EEA or Swiss Confederation citizens covered with insurance and temporarily staying in the Republic of Lithuania are entitled to basic medical aid services, the expenses whereof shall be compensated from the Compulsory Health Insurance Fund.

The nationals of the European Union, the European Economic Area or the Swiss Confederation covered with insurance and residing in the Republic of Lithuania are also entitled to all personal health care services provided in the institutions of the National Health System of Lithuania under the same conditions as persons covered with compulsory health insurance in Lithuania.

Lithuania cannot ratify the above paragraph because the provisions referred to in Article 13§§1, 2 and 3 do not apply on an equal footing with their nationals to nationals of other Parties lawfully staying within the territory of Lithuania, although basic medical aid services and certain social support are provided.

Furthermore, ensuring of the above obligations to all aliens with a temporary residence permit in the Republic of Lithuania is related to additional public expenditure, which has been significantly cut down during the crisis.

Opinion of the Committee:

Article 13§4 grants foreign nationals entitlement to emergency social and medical assistance.

Beneficiaries of Article 13§4

The personal scope of Article 13§4 differs from that of other Charter provisions. The beneficiaries of this right to social and medical assistance are foreign nationals who are lawfully present in a particular country but do not have resident status and ones who are unlawfully present. This is stated in the Charter itself. Paragraph 1§1 of the Appendix, concerning its personal scope, states that Articles 1 to 17 and 20 to 31 apply to foreigners "only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned", but adds that this rule is "without prejudice to Article 12§4, and Article 13§4". Article 13§4 refers to "nationals of other Contracting Parties lawfully within their territories". The Committee has extended the scope of the right to emergency medical assistance.³

By definition, no condition of length of presence can be set on the right to emergency assistance.⁴

Right to emergency assistance

³ International Federation of Human Rights Leagues (FIDH) v. France, Complaint No. 14/2003, Decision on the merits of 8 September 2004, §32.

⁴ Conclusions XIV-1, United Kingdom, p. 845.

States are required to provide for those concerned to cope with an immediate state of need (accommodation, food, emergency care and clothing).⁵ They are not required to apply the guaranteed income arrangements under their social protection systems. While individuals' need must be sufficiently urgent and serious to entitle them to assistance under Article 13§4, this should not be interpreted too narrowly.⁶ The provision of emergency medical care must be governed by the individual's particular state of health.⁷

Conditions governing repatriation – links with the 1953 Convention

Foreign nationals' right to assistance must be "in accordance with [states'] obligations under the European Convention on Social Medical Assistance, signed at Paris on 11th December 1953".

Since the personal and material scope of Article 13§4 is defined in the Charter, the only link between Article 13§4 and the 1953 Convention concerns states' right to repatriate foreigners because they are in need of assistance, in accordance with the Convention's provisions on repatriation. The conditions governing repatriation (Articles 7-10 of the Convention) are: Article 7 authorises parties to repatriate persons on the sole ground that they are in need of assistance. This option may only be applied in the greatest moderation and then only where there is no objection on humanitarian grounds, and subject to the following specific conditions:

- those concerned have not been continuously resident in the party's territory for at least five years. This condition does not apply to nationals of states party to the Charter since foreign nationals legally present in another party may not in any case be repatriated on the ground that they need assistance (see above);
- they are in a fit state of health to be transported;
- they have no close ties in the territory in which they are resident.

In addition, repatriating states must bear the cost of repatriation as far as the frontier of the territory to which the national is being repatriated (Article 8) and provide relevant information to the diplomatic or consular authorities of the country of origin and the authorities of any country or countries of transit (Article 10). Finally, if the country of which an assisted person claims to be a national does not recognise him or her as such, the grounds of the disclaimer must be forwarded to the country of residence (Article 9).

However, the requirement to accept and apply the Article 13§4 provision on repatriation is not conditional on ratification of the 1953 Convention, which means that States that are bound by Article 13§4 must also comply with the Convention provisions on the conditions and arrangements for repatriation of nationals of Charter parties that have not ratified the Convention. According to the Appendix to Article 13§3, states that have ratified the Charter but are not parties to the Convention may accept Article 13§4, "provided that they grant to nationals of other [states that have ratified the Charter] a treatment which is in conformity with the provisions of the said convention".

⁵ Conclusions XIII-4, Statement of Interpretation on Article 13, pp. 54-57.

⁶ Conclusions XIV-1, Netherlands, p. 598.

⁷ Conclusions XIV-1, Iceland, p. 417.

In light of the above, the Committee considers that Lithuania would be in a position to accept Article 13§4.

Article 18§2

Situation of Lithuania:

Employment of aliens, third-country nationals:

- An alien, a third-country national, who arrives with an intention to work in the Republic of Lithuania, must obtain a work permit in the Republic of Lithuania, which is issued upon an employer's application filed with the local labour exchange office.
- An alien may be employed according to an employment contract or, when their permanent position is abroad, may be sent to temporarily work (is seconded) to the Republic of Lithuania.
- A work permit shall be issued to an alien with regard to the needs of the labour market of the Republic of Lithuania, if there is no specialist in Lithuania meeting the employer's qualification requirements. The principle of "Community preference" is applied, i.e. a third-country national may be employed in a vacancy, where it cannot be filled by a permanent Lithuanian resident or an EU resident.
- Employers who are in search of employees must inform local labour exchange offices about the job vacancies, work functions and nature of work, remuneration for work and other terms and conditions as well as qualification requirements for the applicants (pursuant to the Law on Support for Employment). If an employer does not register vacancy with the local labour exchange office, the application on the issue of a work permit is not analysed.
- The employer who intends to employ an alien must submit documents certifying the qualification of an alien; moreover, a job record of an alien under the current professional qualification cannot be shorter than 2 years during the recent 3 years.
- A work permit shall specify the enterprise, agency or organisation where the alien will be employed, the address of the workplace and the job (position). An alien worker shall not be able to change either the workplace or the employer.
- The employer shall register the employment contract concluded with an alien in a local labour exchange office.
- An alien with a work permit shall be issued a temporary residence permit in the Republic of Lithuania by the Migration Department under the Ministry of the Interior.
- If the employment contract concluded with an alien is terminated, the temporary residence permit is withdrawn.

Highly qualified foreign workers, like other aliens, shall be issued a work permit according to the general procedure, and the test of the need of the labour market shall be applied, i.e. a vacancy must be registered in the labour exchange a month before and cannot be filled by a Lithuanian or EU resident during that period.

In accordance with the Description of the Procedure and Conditions for Issuing Work Permits to Aliens approved by Order No. A1-500 of the Minister of Social Security and Labour of the Republic of Lithuania dated 14 August 2009, the employer, in the absence of a specialist in the Republic of Lithuania meeting the employer's qualification requirements, willing to employ an alien, must file an application with a

local labour exchange office to issue a work permit for an alien in the Republic of Lithuania. The application shall be accompanied with the following:

1. A copy of the passport of a citizen of a foreign state or an equivalent document intended for travelling to a foreign state and recognised in the Republic of Lithuania;

2. A copy of an alien's diploma or another document certifying the qualification;

3. A copy of the decision of a competent authority on the acknowledgment of professional qualification if the profession is regulated in the Republic of Lithuania. Information about the acknowledgement of professional qualifications is provided by the Ministry of Social Security and Labour;

4. A certificate issued by the Centre for Quality Assessment in Higher Education on the assessment of the qualification, as stipulated in Resolution No. 60 "On the Approval of the Provisions of Assessment and Academic Acknowledgment of Qualifications Acquired Abroad, Entitling to Higher Education, and Higher Education Qualifications" of the Government of the Republic of Lithuania dated 21 January 2005 (Official Gazette *Valstybės žinios*, 2005, No. 12-369), if the profession is not regulated in the Republic of Lithuania, but there is a requirement for higher education;

5. A copy of the document certifying a job record of an alien under the current professional qualification of 2 years during the recent 3 years. This requirement shall not apply in the case stipulated under Clause 2.3 of the Description of the Procedure and Conditions for Issuing Work Permits to Aliens Staying in the Republic of Lithuania, approved by Order A1-223/1V-310 of the Minister of Social Security and Labour and the Minister of the Interior of the Republic of Lithuania dated 28 September 2004, and in relation to aliens in residency studies in the Republic of Lithuania;

6. Copies of documents certifying improvement of qualifications under the current professional qualification of an alien (if qualification improvement was performed);

7. A certificate issued by a higher school of the Republic of Lithuania certifying the second or subsequent year studies of an alien in the Republic of Lithuania if the applicant is willing to work while studying;

8. A certificate signed by the employer, specifying the following details:

8.1. the necessity to employ an alien;

8.2. redundancies during six months before filing an application for the issuance of a work permit (reasons for redundancies, qualifications of dismissed employees and job position);

8.3. the employer does not have an administrative sanction imposed according to Article 206³ of the Code of Administrative Law Violations of the Republic of Lithuania.

The Lithuanian Labour Exchange issues a work permit with regard to international commitments and labour market needs of the Republic of Lithuania and basing on the conclusion of the local labour exchange office. A work permit in the Republic of Lithuania is issued for a period of up to 2 years, and an alien must obtain it before entering Lithuania. In case of seasonal work, a work permit is issued to an alien for a period of up to 6 months within a year; the period starts on the first day of coming to the Republic of Lithuania. An alien who comes to work as a trainee shall be issued a work permit for the period of one year.

The following amounts of state fees shall be charged for the issuance of work permits to aliens by Resolution No. 1458 "On the Approval of the Rules for Specific Amounts

of State Fees and Payment and Refund of These Fees” of the Government of the Republic of Lithuania dated 15 December 2000 (Official Gazette *Valstybės žinios*, 2008, No. 73-2835):

- LTL 420 (a work permit for 1 year) (comp. LTL 110 (about EUR 32) in 2006)
- LTL 520 (a work permit for 2 years)
- LTL 180 (extension of a work permit)
- LTL 120 (a work permit for seasonal work)
- LTL 120 (a work permit for 1 year according to youth exchange programmes under Lithuanian bilateral agreements)

Being a member state of the European Union, the Republic of Lithuania keeps to the principle to admit as many economic migrants as necessary to meet the needs of the internal labour market. Economic immigration of third-country nationals does not have to promote the economic emigration of the nationals of the member state. Lithuania holds the position that migrant workers should not be applied a simplified procedure for the issuance of a temporary residence permit, because economic migration is and should remain of a temporary nature.

With regard to the above and the key objectives of Article 18§2, of the European Social Charter (Revised) as well as commitments of states regarding the implementation of this paragraph, Lithuania cannot ratify this paragraph. The existing formalities concerning foreign workers and their employers in Lithuania do not meet the criterion of simplified formalities.

Opinion of the Committee:

Formalities and dues and other charges are one of the aspects of regulations governing the employment of workers also covered by Article 18§3 but are dealt with specifically under this provision.⁸

With regard to the formalities to be completed, conformity with Article 18§2 presupposes the possibility of completing such formalities in the country of destination as well as in the country of origin⁹ and obtaining the residence and work permits at the same time and through a single application.¹⁰ It also implies that the documents required (residence/work permits) will be delivered within a reasonable time.¹¹

Chancery dues and other charges for the permits in question must not be excessive and, in any event, must not exceed the administrative cost incurred in issuing them.¹²

In light of the above, the Committee considers that Lithuania would be in a position to accept Article 18§2.

⁸ Conclusions IX-1, United Kingdom, p. 102.

⁹ Conclusions XVII-2, Finland, p. 243.

¹⁰ Conclusions XVII-2, Germany, pp. 285-286.

¹¹ Conclusions XVII-2, Portugal, pp. 702-703.

¹² Conclusions XVII-2, Portugal, p. 703.

Article 18§3

Situation of Lithuania:

Due to growing economy and emigration since the end of 2006, the Lithuanian labour market has observed the shortage of labour force (in particular, in transport, services and construction sectors). Therefore, since 2007, the *List of Deficit Professions in Lithuania* has been compiled bi-annually and approved by the order of the Minister of Social Security and Labour of the Republic of Lithuania. The list specifies the professions where deficit has been recorded and limiting the opportunities of the company's activity. Referring to this list, aliens already working in Lithuania are provided with the opportunity to obtain a new work permit for another 2 years without having left the Republic of Lithuania. The list of deficit professions is compiled with regard to the following evaluation criteria: the unemployment level and its forecasts, the demand for labour force (the demand doubles the supply); job vacancies that cannot be filled (a vacancy is not filled for more than 3 months or the supply for labour force meeting qualification requirements has been absent for more than 3 months); the professions of aliens working in Lithuania.

Having regard to the provisions of the Law Amending and Supplementing Articles 2, 4, 5, 8, 10, 11, 21, 26, 34, 35, 43, 45, 51, 53, 62, 63, 64, 80, 81, 93, 101, 106, 125 and 140¹ of the Republic of Lithuania Law on the Legal Status of Aliens and Supplementing the Law with Article 141¹ (Official Gazette *Valstybės žinios*, 2009, No. 93-3984) as well as the changing labour market needs and the unemployment level in Lithuania, the Description of the Procedure and Conditions for Issuing Work Permits to Aliens (hereinafter referred to as the Description) was approved (Order No. A1-500 of the Minister of Social Security and Labour of the Republic of Lithuania dated 14 August 2009 (Official Gazette *Valstybės žinios*, 2009, No. 98-4134) which:

- specifies certain conditions when an alien has been exempted from an obligation to obtain a work permit, i.e. when an alien is:
 - the owner and head of an enterprise, agency or organisation registered in the Republic of Lithuania,
 - the owner of an enterprise registered in the Republic of Lithuania, whose authorised capital accounts for at least LTL 50 000, and his presence is essential in pursuance of the aims of the enterprise;
 - the co-owner of an enterprise registered in the Republic of Lithuania, the nominal value of whose share in the authorised capital of the enterprise accounts for at least LTL 50 000, and his presence in Lithuania is essential in pursuance of the aims of the enterprise and undertaking of its activities,
 - the head of an enterprise registered in the Republic of Lithuania, whose authorised capital accounts for at least LTL 50 000;
 - a member of the relocated staff (head or specialist) of a foreign enterprise from the World Trade Organisation (WTO) member state, working in Lithuania;
 - a non-EU national, lawfully and permanently working for an EU enterprise and temporarily seconded by this enterprise to Lithuania, and has a certificate issued by a competent authority attesting that he is covered with social insurance;
 - a member of the crew sailing under the Lithuanian flag on international routes.

Other conditions when an alien is not required to obtain a work permit have remained the same.

- specifies the deadline for examining documents in a local labour exchange office and shortens the deadline for examining documents in the Lithuanian Labour Exchange:

the employer, in the absence of a specialist in the Republic of Lithuania meeting the employer's qualification requirements, willing to employ an alien, must file an application in the established form with a local labour exchange office. Upon receipt of the documents, a local labour exchange office submits a conclusion regarding a permit to employ an alien to the Lithuanian Labour Exchange not later than within 21 calendar days, and the Lithuanian Labour Exchange examines the employer's application, makes a decision regarding a work permit and issues a permit not later than within 20 calendar days (in total, 41 calendar days); in case of highly qualified workers – within 24 calendar days;

- tightens the conditions for the issuance of a work permit and extension thereof.

A work permit is not issued or extended to an alien if it transpires that the employer:

- has effective administrative sanctions imposed in accordance with Articles 413, 414, 2063 of the CALV of the Republic of Lithuania;
- has dismissed two or more employees from his enterprise according to Article 129 of the LC of the Republic of Lithuania, of the same qualifications as the qualifications held by an alien to be employed, during 6 months before filing an application for the issuance of a work permit;
- refuses to employ a person, suggested by a local labour exchange office, with adequate professional qualifications who does not need to be issued a work permit.

The Description of the Procedure and Conditions for Issuing Work Permits to Aliens stipulates the conditions for the issuance of a work permit to aliens who come to Lithuania in cases established in international agreements of the Republic of Lithuania on youth exchange. The Description of the Procedure and Conditions for Issuing Work Permits to Aliens Staying in the Republic of Lithuania stipulates that a work permit may be issued to an alien staying in Lithuania in cases established in international agreements of the Republic of Lithuania on youth exchange.

Pursuant to Clause 44 of the Description of the Procedure and Conditions for Issuing Work Permits to Aliens approved by Order No. A1-500 of the Minister of Social Security and Labour of the Republic of Lithuania dated 14 August 2009, an alien cannot be employed in a workplace other than the workplace indicated in the work permit and perform a job function (of a certain profession, qualification, speciality, job or hold a certain position) other than the job function indicated in the work permit.

The question of ratification requires consideration because although an alien must obtain a work permit before entering the Republic of Lithuania, this simplifies and accelerates the procedure for issuing a residence permit in Lithuania.

Moreover, following the provisions of the Law and the Description of the Procedure and Conditions for Issuing Work Permits to Aliens approved by Order No. A1-500 of

the Minister of Social Security and Labour of the Republic of Lithuania dated 14 August 2009, entry of aliens to the Lithuanian labour market has been liberalised (various categories of aliens do not need a work permit).

Opinion of the Committee:

Under Article 18§3, States are required to liberalise periodically the regulations governing the employment of foreign workers in the following areas:

– Access to the national labour market

The conditions laid down for access by foreign workers to the national labour market must not be excessively restrictive, in particular with regard to the geographical area in which the occupation can be carried out and the requirements to be met.¹³

States parties may make foreign nationals' access to employment on their territory subject to possession of a work permit but they cannot ban nationals of States Parties, in general, from occupying jobs for reasons other than those set out in Article G of the Charter. The only jobs from which foreigners may be banned therefore are those that are inherently connected with the protection of the public interest or national security and involve the exercise of public authority.

– Right to engage in an occupation:

A person who has been legally resident for a given length of time on the territory of another Party should be able to enjoy the same rights as nationals of that country. The restrictions initially imposed with regard to access to employment (which can be accepted only if they are not excessive) must therefore be gradually lifted.¹⁴

– Rights in the event of loss of employment

Loss of employment must not lead to the cancellation of the residence permit, thereby obliging the worker to leave the country as soon as possible. In such cases, Article 18 requires extension of the validity of the residence permit to provide sufficient time for a new job to be found.¹⁵

Taking in consideration the above, the Committee considers that Lithuania would be in a position to accept Article 18§3.

¹³ Conclusions V, Germany, p. 119.

¹⁴ Conclusions II, Statement of Interpretation on Article 18§3, p. 60.

¹⁵ Conclusions XVII-2, Finland, p. 247.

Article 19§2

Situation of Lithuania:

The principal legal act regulating the legal status of aliens in Law on the Legal Status of Aliens of the Republic of Lithuania (Official Gazette, 2004, No. 73-2539) (hereinafter referred to as the Law).

Pursuant to subparagraphs 3 and 4 of Article 40(1), a temporary residence permit in the Republic of Lithuania (hereinafter referred to as the TRP) may be issued or replaced to an alien if the alien intends to work in the Republic of Lithuania or it is a case of family reunification.

Article 44(1) provides that a TRP may be issued to an alien who intends to work in the Republic of Lithuania, provided that the alien holds a work permit or has been exempted from an obligation to obtain a work permit. An alien must obtain a work permit before entering the Republic of Lithuania, and the Minister of Social Security and Labour together with the Minister of the Interior shall set the conditions and procedure for when an alien may be issued a work permit during his stay in the Republic of Lithuania (Article 57 of the Law). An alien who intends to work shall be issued a TRP for one year.

In accordance with Article 43, a TRP may be issued to an alien in the event of family reunification if the alien's spouse or the person with whom a registered partnership has been contracted resides in the Republic of Lithuania and who is in possession of a residence permit (both of the alien spouses or aliens who have contracted a registered partnership may not be younger than 21 years), also if the parents of the minor alien or one of them or the spouse of one of them in whose guardianship the minor alien is, is in possession of a residence permit and resides in the Republic of Lithuania . Such an alien (family member) may be issued or replaced a TRP if he meets the conditions laid down in subparagraphs 2 to 4 in paragraph 1 of Article 26 of this Law or the person whom he is joining for family reunification ensures that his family member meets the said conditions in accordance with the procedure laid down by laws.

These paragraphs of the Law stipulate that a residence permit may be issued or replaced to an alien if the alien (family member):

1. has a valid document evidencing health insurance coverage when, in the cases established by the laws of the Republic of Lithuania, he is not covered by compulsory health insurance, or, in the cases and in accordance with the procedure established by the Government of the Republic of Lithuania, he has a confirmed commitment of a citizen of the Republic of Lithuania or an alien residing in the Republic of Lithuania to cover the costs of the health care services provided to him during the period of his residence in the Republic of Lithuania;
2. has adequate means of subsistence and/or receives regular income which is sufficient for his stay in the Republic of Lithuania;
3. owns residential premises in the Republic of Lithuania or uses the residential premises under the lease or loan for use contract, provided that the duration of the relevant contract is not shorter than the period of validity of the temporary residence permit and has been registered in accordance with the established procedure, or presents an undertaking of a natural or legal person to provide him with

accommodation for the period of validity of the temporary residence permit, approved in the manner established by legal acts.

The right to family reunification shall not be granted to the aliens who have lodged asylum applications in the Republic of Lithuania until their application has not been finally decided upon as well as the aliens who have been granted subsidiary or temporary protection in the Republic of Lithuania.

In accordance with paragraph 26 of Article 2 of the Law, family members mean the spouse or the person with whom a registered partnership has been contracted, children (adopted children) (hereinafter referred to as the children) under the age of 18, including the children under the age of 18 of the spouse or the person with whom a registered partnership has been contracted, on condition that they are not married and are dependent, as well as direct relatives in the ascending line who have been dependent for at least one year and are unable to use the support of other family members resident in a foreign country.

Paragraph 6 of Article 43 of the law lays down that the alien whose family members enter for family reunification must have resided in the Republic of Lithuania for the last two years, hold a TRP valid for at least one year and have reasonable prospects of obtaining the right to permanently reside in the Republic of Lithuania. This provision shall not apply when the family members join the alien who has been granted the refugee status in the Republic of Lithuania, or who performs a job requiring high professional skills for which, during the period of validity of the temporary TRP, a monthly salary received is not less than three most recently announced monthly average salaries of the national economy.

In the case of family reunification, an alien shall be issued a TRP for the same period as for the alien whom he is joining, and if an alien's TRP is withdrawn, TRPs of the alien's family members living together with him shall also be withdrawn, except in cases where they are entitled to reside in the Republic of Lithuania on other grounds set by the Law (paragraphs 1 and 3 of Article 50 of the Law).

Articles 136 to 139 establish that decisions made in accordance with the Law may be appealed against in accordance with the procedure established by the Law and the Law on Administrative Proceedings. An appeal against a decision made in accordance with the Law may be lodged with the appropriate administrative court in the manner and under the conditions established by the Law on Administrative Proceedings, except in cases provided for by the Law, within 14 days from the day of service of the decision.

The implementation of the decision appealed against shall be suspended when:

- 1) the alien's residence permit is withdrawn;
- 2) the alien who has lodged an asylum application is not granted temporary territorial asylum in the Republic of Lithuania and is obliged to depart from the Republic of Lithuania or is expelled from it to a safe third country or the country of origin;
- 3) the alien is refused asylum and is obliged to depart from the Republic of Lithuania, is expelled from it or returned to a foreign country, the examination of the asylum application is terminated or the granted asylum is withdrawn;

4) the alien is expelled from the Republic of Lithuania (shall not apply in cases where the grounds for expulsion are related to a threat to national security or public policy constituted by the alien's stay in the Republic of Lithuania).

Currently, the draft law amending the Law (hereinafter referred to as the Draft) has been prepared and coordinated with interested institutions. The Draft provides for the following relevant amendments:

1. Paragraph 2 of Article 37 stipulates that an alien who intends to work shall be issued or replaced a TRP for the period equal to the period of validity of a work permit or the period of concluded employment contract, but not longer than for a year (i.e. a TRP may be issued for a shorter period than a year).

2. Subparagraph 5 of paragraph 1 of Article 33 lays down a new ground for issuing/replacing a TRP: an intention to perform a job requiring high qualification in the Republic of Lithuania in accordance with the provisions of the Law.

3. Subparagraph 1 of paragraph 6 of Article 36 establishes that an alien who performs a job requiring high qualification in the Republic of Lithuania and whose family members come for family reunification shall be exempted from the requirement to have been resided in the Republic of Lithuania for the last two years, hold a valid TRP and have reasonable prospects of obtaining the right to permanently reside in the Republic of Lithuania.

Pursuant to paragraph 1 of Article 6 of the Republic of Lithuania Law on Health Insurance (Official Gazette *Valstybės žinios*, 1996, No. 55-1287; 2002, N. 123-5512), the following persons shall be eligible for compulsory health insurance: citizens of the Republic of Lithuania and aliens permanently residing in the Republic of Lithuania; aliens temporarily residing in the Republic of Lithuania, provided that they are legally employed in the Republic of Lithuania, as well as under-age members of their families; unaccompanied under-age aliens; most socially vulnerable aliens who have received additional or temporary protection in the Republic of Lithuania.

Therefore, all persons who are legally employed in the Republic of Lithuania and under-age members of their families have the right to use the above referred state guaranteed (free) personal health care services, choose an acceptable health care establishment and a specialist, receive medications and medical aids the purchasing expenses whereof are reimbursed from the Compulsory Health Insurance Fund.

Citizens of the Republic of Lithuania as well as nationals of other states and stateless persons, who have declared a permanent place of residence in the Republic of Lithuania at the prescribed procedure, shall be entitled to the establishment of the working capacity level (in accordance with Order No. A1-78/V-179 "On the Approval of the Description of Criteria for the Establishment of Working Capacity Level and the Description of the Procedure for the Establishment of Working Capacity Level" of the Minister of Social Security and Labour and the Minister of Health of the Republic of Lithuania dated 21 March 2005 (Official Gazette *Valstybės žinios*, 2005, No. 38-1253) and the establishment of special needs (in accordance with Order No. A1-220/V-505 "On Amending Order No. A1-120/V-346 "On the Approval of the List of Criteria for the Establishment of Special Needs for Permanent Nursing, Permanent Assistance, the Reimbursement of Expenses of Acquisition of Motor Vehicles and Their Technical Adaptation as well as Transport Expenses, the procedure Description and Forms of Certificates" of the Minister of Social Security and Labour and the Minister of Health of the Republic of Lithuania dated 4 May 2005" of the Minister of Social Security and

Labour and the Minister of Health of the Republic of Lithuania dated 4 June 2010 (Official Gazette *Valstybės žinios*, 2010, No. 68-3424).

By Resolution No. 331 “On the Submission of the Draft Law Amending Articles 1 and 9 of the Republic of Lithuania Law on Social Integration of the Disabled and Supplementing the Law with Appendix to the Seimas of the Republic of Lithuania“ dated 23 March 2011 (Official Gazette *Valstybės žinios*, 2011, No. 36-1716), the Government of the Republic of Lithuania submitted the draft Law Amending Articles 1 and 9 of the Republic of Lithuania Law on Social Integration of the Disabled and Supplementing the Law with Appendix for the deliberation of the Parliament of the Republic of Lithuania. The draft lays down that the provisions related to the establishment of working capacity level and examination of disputes related to the establishment of working capacity level shall also apply to aliens residing in the Republic of Lithuania who have been issued a temporary residence permit as intending to perform a job requiring high professional skills in the Republic of Lithuania (there is an objective to harmonise the provisions of the law with the provisions of Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment).

The draft also provides that Articles 19, 20, 23 and 24 of the Law shall apply to other persons who, keeping to the EU regulations on the coordination of social security systems, must be granted social security benefits, and the disability level and working capacity level, special needs and the level of special needs must be respectively established.

With regard to the above, Lithuania holds the position that it should not ratify Article 19§2, of the Charter.

Opinion of the Committee:

This paragraph obliges States to adopt special measures for the benefit of migrant workers, beyond those which are provided for nationals to facilitate their departure, journey and reception.¹⁶

Reception must include not only assistance with regard to placement and integration in the workplace, but also assistance in overcoming problems, such as short-term accommodation, illness, shortage of money and adequate health measures.¹⁷

In the light of the above, the Committee considers that Lithuania may be in a position to accept Article 19§2, provided that measures regarding also short-term accommodation and shortage of money for migrant workers and their families are in place.

¹⁶ Conclusions III, Cyprus, p. 88.

¹⁷ Conclusions IV, Germany, p. 116.

Article 19§4*Situation of Lithuania:*

In establishing the amounts of wages and work conditions, Article 2(1)(4) (Principles of Legal Regulation of Labour Relations) of the Labour Code of the Republic of Lithuania should be followed. It provides for the equality of subjects of labour law irrespective of their gender, sexual orientation, race, national origin, language, origin, citizenship and social status, religion, marital and family status, age, opinions or views, political party or public organisation membership, factors unrelated to the employee's professional qualities.

Pursuant to Article 186(3) of the Labour Code, the wage of an employee shall depend upon the amount and quality of work, the results of the activities by the enterprise, agency or organisation as well as the labour demand and supply on the labour market. Men and women shall get an equal pay for equal or equivalent work, i.e. the amounts of work pay shall not be related to nationality.

According to Article 187(1) of the Labour Code, the Government, upon the recommendation of the Tripartite Council, shall determine the minimum hourly pay and the minimum monthly wage. Upon the recommendation of the Tripartite Council, the Government may establish different minimum rates of the hourly pay and the minimum monthly wage for different branches of economy, regions or categories of employees. Paragraph 2 of the Article stipulates that collective agreements may establish higher rates of the minimum wage than those referred to in paragraph 1 of this Article. The hourly pay or the monthly wage of an employee may not be less than the minimum rates referred to in paragraphs 1 and 2 of this Article.

The above guarantees of the Labour Code shall apply to all employees working under employment contracts.

Having regard to the provisions concerning housing, which lay down that the Republic of Lithuania Law on State Support for the Acquisition or Rental of Housing and Modernisation of Multi-Apartment Buildings regulates state support for the acquisition of housing, modernisation of multi-apartment buildings and rental of social housing for persons with a permanent place of residence in the Republic of Lithuania. However, aliens temporarily living in Lithuania for the purposes of work are not prohibited to acquire housing from private persons or apply to commercial banks for a housing loan.

Association of Lithuanian Banks informed that foreigners can get loans for the acquisition of housing in Lithuania and the requirements/conditions are the same as for the Lithuanian nationals with the only difference: foreigners have to provide the document proving that they are residing in Lithuania legally; the validity of such document should be longer than the term of loan.

With regard to the situation in the housing domain, Lithuania proposes not to ratify the provisions of Article 19§4.

Opinion of the Committee:

This paragraph guarantees the right of migrant workers to a treatment not less favourable than that of the nationals in the areas of: (i) remuneration and other employment and working conditions, (ii) trade union membership and the enjoyment of benefits of collective bargaining, and (iii) accommodation.

States are required to guarantee certain minimum standards in these areas with a view to assisting and improving the legal, social and material position of migrant workers and their families.

States are required to prove the absence of discrimination, direct or indirect, in terms of law and practice,¹⁸ and should inform of any practical measures taken to remedy cases of discrimination. Moreover, States should pursue a positive and continuous course of action providing for more favourable treatment of migrant workers.¹⁹

a remuneration and other employment and working conditions;

Under this sub-heading, States are obliged to eliminate all legal and de facto discrimination concerning remuneration and other employment and working conditions, including in-service training and promotion. The provision applies notably to vocational training.²⁰

b membership of trade unions and enjoyment of the benefits of collective bargaining;

This sub-heading requires States to eliminate all legal and de facto discrimination concerning trade union membership²¹ and as regards the enjoyment of the benefits of collective bargaining, including access to administrative and managerial posts in trade unions.

c accommodation;

The undertaking of States under this sub-heading is to eliminate all legal and de facto discrimination concerning access to public and private housing. There must be no legal or de facto restrictions on home-buying,²² access to subsidised housing or housing aids, such as loans or other allowances.²³

In light of the above, the Committee considers that Lithuania for the moment is not in a position to accept Article 19§4 because of the the existing restrictions on loans for home-buying.

¹⁸ Conclusions III, Italy, p. 92.

¹⁹ Conclusions I, Italy, Norway, Sweden, United-Kingdom, p. 81.

²⁰ Conclusions VII, United-Kingdom, p. 103.

²¹ Conclusions XIII-3, Turkey, p. 418.

²² Conclusions IV, Norway, p. 121.

²³ Conclusions III, Italy, p. 92.

Article 19§6*Situation of Lithuania:*

Subparagraph 3 of § 1 of Article 40 of the Law stipulates that a TRP may be issued or replaced to an alien if it is a case of family reunification.

In accordance with paragraph 26 of Article 2 of the Law, family members mean the spouse or the person with whom a registered partnership has been contracted, children (adopted children) (hereinafter referred to as the children) under the age of 18, including the children under the age of 18 of the spouse or the person with whom a registered partnership has been contracted, on condition that they are not married and are dependent, as well as direct relatives in the ascending line who have been dependent for at least one year and are unable to use the support of other family members resident in a foreign country.

Pursuant to Article 43, a TRP may be issued to an alien in the event of family reunification if the alien's spouse or the person with whom a registered partnership has been contracted is in possession of a residence permit and resides in the Republic of Lithuania (both of the alien spouses or aliens who have contracted a registered partnership may not be younger than 21 years), also if the parents of the minor alien or one of them or the spouse of one of them in whose guardianship the minor alien is, is in possession of a residence permit and resides in the Republic of Lithuania. Such an alien (family member) may be issued or replaced a TRP if he meets the conditions laid down in subparagraphs 2 to 4 in paragraph 1 of Article 26 of this Law or the person whom he is joining for family reunification ensures that his family member meets the said conditions in accordance with the procedure laid down by laws. These paragraphs of the Law stipulate that a residence permit may be issued or replaced to an alien if the alien (family member):

1. has a valid document evidencing health insurance coverage when, in the cases established by the laws of the Republic of Lithuania, he is not covered by compulsory health insurance, or, in the cases and in accordance with the procedure established by the Government of the Republic of Lithuania, he has a confirmed commitment of a citizen of the Republic of Lithuania or an alien residing in the Republic of Lithuania to cover the costs of the health care services provided to him during the period of his residence in the Republic of Lithuania;

2. has adequate means of subsistence and/or receives regular income which is sufficient for his stay in the Republic of Lithuania;

3. owns residential premises in the Republic of Lithuania or uses the residential premises under the lease or loan for use contract, provided that the duration of the relevant contract is not shorter than the period of validity of the temporary residence permit and has been registered in accordance with the established procedure, or presents an undertaking of a natural or legal person to provide him with accommodation for the period of validity of the temporary residence permit, approved in the manner established by legal acts.

The right to family reunification shall not be granted to the aliens who have lodged asylum applications in the Republic of Lithuania until their application has not been finally decided upon as well as the aliens who have been granted subsidiary or temporary protection in the Republic of Lithuania.

Paragraph 6 of Article 43 lays down that the alien whose family members enter for family reunification must have resided in the Republic of Lithuania for the last two years, hold a temporary residence permit valid for at least one year and have reasonable prospects of obtaining the right to permanently reside in the Republic of Lithuania. This provision shall not apply when the family members join the alien who has been granted the refugee status in the Republic of Lithuania, or who performs a job requiring high professional skills for which, during the period of validity of the temporary residence permit, a monthly salary received is not less than three most recently announced monthly average salaries of the national economy.

In the case of family reunification, an alien shall be issued a TRP for the same period as for the alien whom he is joining, and if an alien's TRP is withdrawn, TRP of the alien's family members living together with him shall also be withdrawn, except in cases where they are entitled to reside in the Republic of Lithuania on other grounds set by the Law (paragraphs 1 and 3 of Article 50 of the Law).

Subparagraph 2 of paragraph 1 of Article 36 of the Draft provides for the ground to issue a TRP to a minor alien, whose parents or one of them holds a residence permit in the Republic of Lithuania.

According to Subparagraph 1 of paragraph 6 of Article 36 of the Draft, an alien who performs a job requiring high qualification in the Republic of Lithuania and whose family members come for family reunification shall be exempted from the requirement to have been resided in the Republic of Lithuania for the last two years, hold a valid TRP and have reasonable prospects of obtaining the right to permanently reside in the Republic of Lithuania.

With regard to the above, Lithuania should not ratify Article 19§6 of the Charter.

Opinion of the Committee:

This paragraph obliges States to allow the families of migrants legally established in their territory to join them. The worker's children entitled to family reunion are those who are dependent and unmarried, and who fall under the legal age-limit in the receiving state (under the Charter the age limit for admission under family reunion is set at the age of majority, which in most countries is 18 years).

"Dependent" children are understood as being those who have no independent existence outside the family group, particularly for economic or health reasons, or because they are pursuing unpaid studies.²⁴

²⁴ Conclusions VIII, p. 212.

Conditions and restrictions of family reunion:

a) Refusal on health grounds

A state may not deny entry to its territory for the purpose of family reunion to a family member of a migrant worker for health reasons. A refusal on this ground may only be admitted for specific illnesses which are so serious as to endanger public health.²⁵ These are the diseases requiring quarantine which are stipulated in the World Health Organisation's International Health Regulations of 1969, or other serious contagious or infectious diseases such as tuberculosis or syphilis. Very serious drug addiction or mental illness may justify refusal of family reunion, but only where the authorities establish, on a case-by-case basis, that the illness or condition constitutes a threat to public order or security.²⁶

b) Length of residence

States may require a certain length of residence of migrant workers before their family can join them. A period of a year is acceptable under the Charter. On the contrary, a period of three years is not in conformity with this provision of the Charter.²⁷

c) Housing condition

The requirement of having sufficient or suitable accommodation to house the family or certain family members should not be so restrictive as to prevent any family reunion.²⁸

d) Means requirement

The level of means required by States to bring in the family or certain family members should not be so restrictive as to prevent any family reunion.²⁹

Once a migrant worker's family members have exercised the right to family reunion and have joined him or her in the territory of a State, they have an independent right to stay in that territory.

In light of the above, the Committee considers that Lithuania is not in a position to accept Article 19§6 because the requirement of length of residence might be deemed too long and also family members of the migrant workers do not seem to enjoy an independent right to stay in the territory of the country.

²⁵ Conclusions XVI-1, Greece, p. 316.

²⁶ Conclusions XVI-1, Finland, pp. 227-228.

²⁷ Conclusions I, Germany, p. 216-217.

²⁸ Conclusions IV, Norway, p. 126.

²⁹ Conclusions XIII-1, The Netherlands, p. 209.

Article 19§8

Situation of Lithuania:

Article 125 of the Law provides for the following grounds, under the presence whereof an alien shall be obligated to depart from the Republic of Lithuania:

- 1) if the alien's visa has been annulled;
- 2) if the alien's TRP or permanent residence permit has been withdrawn;
- 3) if the alien stays in the Republic of Lithuania after the expiry of his visa;
- 4) if the alien stays in the Republic of Lithuania after the expiry of the TRP;
- 5) if the alien entered the Republic of Lithuania lawfully, but stays in the Republic of Lithuania without possessing a temporary or permanent residence permit, where he is obliged to possess one;
- 6) if the alien has been staying in the Republic of Lithuania for a period exceeding the period of visa-free stay set for aliens in paragraphs 2, 4 and 5 of Article 11 of the Law;
- 7) if the alien entered the Republic of Lithuania being in possession of a visa issued by another Schengen State, which does not entitle him to stay in the territory of the Republic of Lithuania.

Pursuant to Article 126, an alien shall be expelled from the Republic of Lithuania if:

- 1) the alien has failed to comply with the obligation to depart from the Republic of Lithuania within a set time period;
- 2) the alien has entered or stays in the Republic of Lithuania unlawfully;
- 3) the alien's stay in the Republic of Lithuania constitutes a threat to national security or public policy;
- 4) a decision has been made to expel the alien from another state to which the Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals applies.

When making a decision to expel an alien from the Republic of Lithuania, the following shall be taken into account: the period of his lawful stay in the Republic of Lithuania; his family relationship with persons residing in the Republic of Lithuania; his existing social, economic and other connections with the Republic of Lithuania; the nature and extent of dangerousness of the committed violation of law (paragraph 1 of Article 128 of the Law).

Vilnius Regional Administrative Court shall adopt a decision to expel an alien from the Republic of Lithuania on the grounds of constituting a threat to national security or public policy (paragraphs 1 and 2 of Article 140¹ of the Law).

Article 139 of the Law establishes that the implementation of the decision appealed against shall be suspended when:

- 1) the alien's residence permit is withdrawn;
- 2) the alien who has lodged an asylum application is not granted temporary territorial asylum in the Republic of Lithuania and is obliged to depart from the Republic of Lithuania or is expelled from it to a safe third country or the country of origin;
- 3) the alien is refused asylum and is obliged to depart from the Republic of Lithuania, is expelled from it or returned to a foreign country, the examination of the asylum application is terminated or the granted asylum is withdrawn;

4) the alien is expelled from the Republic of Lithuania.

In accordance with paragraph 2 of this Article, the implementation of the decision appealed against shall not be suspended in cases where the grounds for expulsion are related to a threat to national security or public policy constituted by the alien's stay in the Republic of Lithuania.

Paragraph 1 of Article 133 of the Draft of the Law lies down that a decision to expel an alien from the Republic of Lithuania is adopted if:

1) the alien has failed to comply with the obligation to depart from the Republic of Lithuania within a set time period;

2) the alien stays in the Republic of Lithuania unlawfully and there are no grounds laid down in Articles 131 or 132 when an alien is obligated to depart from the Republic of Lithuania or the decision is adopted to return him to a foreign country.

3) the alien's stay in the Republic of Lithuania constitutes a threat to national security or public policy.

Pursuant to Article 148 of the Draft of the Law, a decision to expel an alien if the alien's stay in the Republic of Lithuania constitutes a threat to national security or public policy shall be adopted by an institution authorised by the Government. The decision may be appealed against with Vilnius Regional Administrative Court or the Supreme Administrative Court of Lithuania. The implementation of the decision appealed against shall not be suspended in cases where the grounds for withdrawal of a residence permit or expulsion are related to a threat to national security or public policy constituted by the alien's stay in the Republic of Lithuania. The implementation of the decision appealed against shall not be suspended to the national of an EU member state or his family member where the alien's stay in the Republic of Lithuania constitutes a serious threat to national security (Article 146 of the Draft of the Law).

In accordance with the provisions of the Law, the legal status of a family member in the Republic of Lithuania shall depend on the legal status of an alien, except cases where such a family member is entitled to reside in the Republic of Lithuania on other grounds established by the Law. Thus, if an alien is withdrawn a TRP and he is expelled from the Republic of Lithuania due to the threat to national security or public policy, the issue of the legal status of his family member in the Republic of Lithuania shall be considered.

Regarding the possibilities of the Republic of Lithuania to ratify Article 19§8, of the European Social Charter (Revised) stipulating protection of workers lawfully residing in the state from expulsion and interpreted as requiring to ensure a possibility of appealing against the decision to expel a person also in the case of threat to national security, it should be noted that, in accordance with paragraph 1 of Article 140¹ of the Law, the State Security Department shall apply to Vilnius Regional Administrative Court with a request to expel the alien on the grounds of constituting a threat to national security. The decision adopted by the court may be later appealed against to the Supreme Administrative Court of Lithuania under paragraph 4 of Article 140 of the Law.

The discussions with experts from the European Committee of Social Rights should clarify whether the fact that the decision to expel a person from the state on the grounds of constituting a threat to national security shall be adopted by the court, i.e.

providing procedural guarantees, is material with regard to compliance of a potential situation, where in certain cases a person is expelled from the state on the grounds of constituting a threat to national security having exercised the right of appealing against the court decision regarding expulsion (i.e. having lodged an appeal to the court of the higher instance), yet having not received the court decision regarding the appeal, to Article 19§8, of the European Social Charter.

With regard to the above and the key objectives of Article 19§8, of the European Social Charter (Revised) as well as commitments of states regarding the implementation of this paragraph, Lithuania cannot ratify this paragraph.

Opinion of the Committee:

This paragraph obliges States to prohibit by law the expulsion of migrants lawfully residing in their territory, except where they are a threat to national security, or offend against public interest or morality.³⁰

Expulsion for offences against public order or morality can only be in conformity with the Charter if they constitutes a penalty for a criminal act, imposed by a court or a judicial authority, and are not solely based on the existence of a criminal conviction but on all aspects of the non-nationals' behaviour, as well as the circumstances and the length of time of his/her presence in the territory of the State.

Risks to public health are not in themselves risks to public order and cannot constitute a ground for expulsion, unless the person refuses to undergo suitable treatment.³¹

The fact that a migrant worker is dependent on social assistance can not be regarded as a threat against public order and cannot constitute a ground for expulsion.³²

States must ensure that foreign nationals served with expulsion orders have a right of appeal³³ to a court or other independent body, even in cases where national security, public order or morality are at stake.

Migrant worker's family members, who have joined him or her through family reunion, may not be expelled as a consequence of his or her own expulsion, since these family members have an independent right to stay in the territory.³⁴

The guarantees against expulsion contained in this paragraph only apply to migrant workers and his or her family members if these persons reside legally in the territory of the State.³⁵

In light of the above, the Committee considers that Lithuania would be in a position to accept Article 19§8.

³⁰ Conclusions VI, Cyprus, p. 126.

³¹ Conclusions V, Germany, p. 138.

³² Conclusions V, Italy, pp. 138-139.

³³ Conclusions IV, United-Kingdom, pp. 129-130.

³⁴ Conclusions XVI-1, Netherlands, pp. 460-461.

³⁵ Conclusions II, Cyprus, p. 198.

Article 19§12

Situation of Lithuania:

Article 24 (The Right and Duty of Lithuanian Residents to Study) of the Law No. XI-1281 Amending the Law on Education adopted on 17 March 2011 (Official Gazette *Valstybės žinios*, 2011, No. 38-1804) lays down the following:

1. Each citizen of the Republic of Lithuania, also each alien having a permanent or temporary residence permit in the Republic of Lithuania, has the right to study, attain an education level and a qualification.

2. The State takes measures so that each child in Lithuania studies according to primary, basic or secondary education curricula.

3. The State guarantees each citizen of the Republic of Lithuania, also each alien having a permanent or temporary residence permit in the Republic of Lithuania:

- 1) primary, basic and secondary education;
- 2) access to higher education study curricula or vocational training curricula that result in the acquisition of a primary qualification.

Order No. ISAK-789 “On the Implementation of the Education of Children of Foreign Nationals, Who Came to Work or Live in the Republic of Lithuania, in Comprehensive Schools” of the Minister of Education and Science (Official Gazette *Valstybės žinios*, 2003, No. 57-2554, 24.08.2004, No. 131-4742) establishes that education in comprehensive schools shall be ensured to children of aliens, who come to work or live in the Republic of Lithuania, minor aliens who have been granted temporary protection in the Republic of Lithuania, and unaccompanied minor aliens, without regard to lawfulness of their stay within the territory of the Republic of Lithuania. Each child of an alien shall be provided with the conditions to study the Lithuanian state language and receive instruction in the Lithuanian state language; upon the request of parents, guardians or learners, the conditions for studying their mother tongue shall be created with regard to the possibilities. If the migrants’ mother tongue is Russian or Polish, children can attend schools where instruction in these languages is provided.

Information about education of national minorities in Lithuania

The following number of schools have been currently (2010–2011) functioning in Lithuania: 55 schools where instruction is provided in Polish, 36 schools where instruction is provided in Russian, 1 school where instruction is provided in Belarusian and 43 schools where there are classes of different languages of instruction (12 schools – Lithuanian-Polish, 17 schools – Lithuanian-Russian, 10 schools – Russian-Polish, 4 schools – Lithuanian-Russian-Polish). 383 672 pupils are instructed in Lithuanian (92.8%), 16 292 pupils are instructed in Russian (3.9%), 13 393 pupils are instructed in Polish (3.2%), 173 pupils are instructed in Belarusian. Schools with Polish as the language of instruction are located in Vilnius city, Vilnius, Šalčininkai, Trakai and Švenčionys Districts, with Russian as the language of instruction – mainly in Vilnius, Klaipėda and Visaginas. It should be noted that the number of pupils instructed in the languages of national minorities has changed within 20 years of re-established independence: in the school year 1990/1991, 76 038 pupils (15.3% of all pupils) were instructed in the Russian language, in the school year 2000/2001, 22 303 pupils (3.8% of all pupils) were instructed in the Polish language (these were the maximum figures of the said languages of instruction).

Funding of comprehensive schools with the language of instruction of a national minority

The methodology of calculation and distribution of funds of per-pupil voucher regulates the establishment of the size of per-pupil voucher, calculation and distribution of funds of per-pupil voucher for satisfying education needs of pupils who study according to pre-primary, primary, basic or secondary education curricula (hereinafter referred to as pupils). This methodology shall be applicable for the distribution of funds of per-pupil voucher to state, municipal and private schools which provide pre-primary and general education, as well as pedagogical-psychological services and non-formal education establishments. The concept of “per-pupil voucher” defined in the methodology means funds allocated for satisfying education needs of one conventional student for one year.

For a long time, schools with the language of national minority as the language of instruction had been allocated 10 per cent bigger funds of per-pupil voucher, in 2007 in integrated schools (schools with classes with Lithuanian as the language of instruction and the language of national minority as the language of instruction) funds of per-pupil voucher were increased up to 20 per cent, whereas since 2008 all schools with the language of national minority as the language of instruction have been allocated 20 per cent bigger funds of per-pupil voucher. As of 1 September 2009, a per-pupil voucher for a pupil instructed in the language of national minority has been subject to a 15 per cent increase coefficient. As of 1 January 2011, having applied a 15 per cent coefficient, LTL 3806 has been allocated to a pupil from the national minority school (comp. LTL 3310 of the per-pupil voucher for a conventional student).

The funds of per-pupil voucher are used for teachers' salaries, professional development, textbooks, visual and technical aids. As of 2006, per-pupil voucher has included funds for learners' cognitive needs; as of 2007 – vocational guidance; as of 2009 – administration, implementation and assessment of *matura* examinations and funding of modules of artistic education curricula of vocational direction; as of 2010 – implementation and use of ICT, organisation of external audit.

Curriculum content and textbooks

Comprehensive schools instructing in the language of national minority organise the education process according to General Education Plans of Primary, Basic and Secondary Education Curricula, approved by the Minister of Education and Science, which provide for teaching of the same subjects in all schools of Lithuania; however, schools instructing in the language of national minority additionally teach mother tongue (the same number of hours as allotted for teaching the Lithuanian mother tongue) and teach Lithuanian according to the state language curriculum. Education plans provide for various possibilities to strengthen the teaching of Lithuanian.

All Polish and Russian mother tongue textbooks for forms 11–12 have been developed and published in Lithuania; alternative new textbooks are also being published for certain forms. The textbooks of other subjects of primary and basic curricula have been translated from Lithuanian. Textbooks for teaching the Lithuanian state language have also been published. Since 2001, schools have been ordering

textbooks, and publishing houses have been publishing them according to the orders from school communities. Schools acquire textbooks from the funds of per-pupil voucher. In the school year 2010/2011, the list of existing textbooks includes 28 textbooks for teaching the Polish mother tongue, 23 textbooks for teaching the Russian mother tongue, 19 textbooks for teaching the Lithuanian state language, and concerning other subjects – 39 textbooks in Polish and 42 textbooks in Russian.

Evaluation of achievements in basic education and *matura* examinations

Upon completion of the basic school (i.e. the 10th form), evaluation of achievements in basic education is implemented. In 2010, like in the previous years, students of the final form of the basic education curriculum could choose the subjects for testing their achievements. Pupils who study in schools instructing in the language of Polish, Russian or Belarusian may check their knowledge of Mathematics, the Lithuanian state language and their mother tongue. The reform of *matura* examinations, started in 1999 in Lithuania, established only one compulsory examination – the examination of the Lithuanian language, whereas other examinations could be taken upon pupils' choice. In 2010, in order to be granted a certificate of secondary education, a pupil had to pass 2 examinations; the maximum number of elective examinations was 5. The *matura* examination of Polish, Russian or Belarusian has been included in the list of elective examinations, whereas school councils may decide whether it is compulsory for graduates of that school or not.

In Lithuania, the elective school-level *matura* examination of the national minority mother tongue may be chosen by all pupils who are willing to take it; however, upon the request of the Polish community, the Procedure for the Organisation and Implementation of *Matura* Examinations provides that the principal, upon the approval of the school council, adopts the decision coordinated with the school council concerning the compulsory *matura* examination of the language of instruction (Belarusian, Polish, Russian, German), which has been taught according to the mother tongue curriculum, by 10 January of the current year. In this case, the examination of the mother tongue becomes compulsory for the pupils of that school. The Polish community living in Lithuania intends to achieve that evaluation of basic education achievements of the national minority mother tongue upon completion of the basic education curriculum and compulsory *matura* examination are regulated at the procedure approved by the Minister of Education and Science. The number of pupils who selected the mother tongue *matura* examinations in 2010 illustrates different tendencies in schools instructing in Polish and Russian: almost 100 per cent of graduates of Polish schools took this examination, compared to about 70 per cent of graduates of Russian schools; and 7 out of 16 graduates of Pranciškus Skorina Secondary School in Vilnius took the Belarusian language examination.

Currently, pupils in Lithuania take the Lithuanian mother tongue and the Lithuanian state language *matura* examinations according to different curricula. Starting with the school year 2011/2012, a common Lithuanian language secondary education curriculum will be implemented in all schools of Lithuania; therefore, the Lithuanian language *matura* examination will be implemented in 2013 according to a common curriculum.

The examination of the Lithuanian language according to a common curriculum has been envisaged in the following documents:

1. Regulations of Education of National Minorities (2002) provide that *“in order to ensure equal opportunities for all pupils to study in Lithuanian higher schools, to organise the matura examination of Lithuanian language literacy according to a common curriculum for graduates of all comprehensive schools, to develop a procedure for the implementation of this provision and create necessary conditions in the education process”*.

2. Implementing Measures of the Programme of the Government of the Republic of Lithuania 2004–2008 – *“To implement the Lithuanian matura examination of a common content for all graduates of general education curricula”* – establishes the time frame by QII 2007.

3. Strategy for Education Development of the Polish National Minority of Lithuania (2005) – *“In order to ensure equal opportunities for pupils when entering higher schools, Lithuanian language tests of matura examinations shall be developed according to the same curriculum for all graduates in Lithuania, regardless of the language of instruction of the school. It will be implemented having coordinated and implemented Lithuanian language curricula (both mother tongue and state language). A transitional period until 2008 has been envisaged for this purpose”*.

4. Plan of Measures for the Improvement of Evaluation of Basic Education Achievements and Matura Examinations 2008–2012 – *“as of 2012, the Lithuanian language examination will be implemented according to a common examination curriculum (instead of former matura examinations of the Lithuanian mother tongue and the Lithuanian state language)”*.

5. In implementing the Republic of Lithuania Government Programme 2008–2012, a common Lithuanian language secondary education curriculum has been developed for all comprehensive schools, and it will be introduced in form 11 (form 3 of the high school) as of 1 September 2011. In 2013, upon completion of the secondary education curriculum, pupils will take the Lithuanian language *matura* examination (school- and state-level) according to a common examination curriculum.

In relation to the plans to introduce the Lithuanian language *matura* examination according to a common examination curriculum (the examination will be held in 2013 and taken by graduates of the school year 2012/2013), a common Lithuanian language secondary education curriculum will be introduced as of 1 September 2011, and the necessary measures (additional classes, textbooks, other teaching aids) have been envisaged for schools instructing in the language of national minority.

The measures related to the development of teaching the state language in schools instructing in the language of national minority will ensure equal opportunities for access to education at all levels for persons belonging to national minorities (Article 12§3, Framework Convention for the Protection of National Minorities) and promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority (Article 4§2, Framework Convention for the Protection of National Minorities). These measures comply with the common Lithuanian integration policy (Strategy for the Development of the Policy of National Minorities by 2015) with a priority to seek social integration of persons belonging to national minorities and living in Lithuania, i.e. to create adequate conditions of living, working and studying in Lithuania, as well as preserving their identity and ensuring harmonious ethnic relations.

Training of pedagogues

In implementing university and non-university (college) study programmes, Lithuanian higher schools have been training pedagogues for all pre-school education establishments and comprehensive schools. First cycle (bachelor) study programmes include programmes, graduates whereof acquire a bachelor's degree in Pedagogy and the specific subject and the professional qualification of teacher. Studies in Lithuanian higher schools are instructed in Lithuanian and all future teachers must be adequately prepared for pedagogic activities in educational establishments.

Vilnius Pedagogical University offers programmes, graduates whereof acquire a bachelor's degree in Pedagogy and Belarusian, Polish, Russian Philology, Russian Philology and Intercultural Communication, Russian Language and become teachers of mother tongues in comprehensive schools instructing in national minority language. Vilnius College offers the programme of Pedagogy of the Lithuanian Language and Literature, upon completion whereof a professional bachelor's degree and the qualification of teacher are acquired and the graduate can work as a teacher of the Lithuanian state language.

The provisions of the Law on Education regarding education of national minorities

Article 30 of the Law No. XI-1281 Amending the Law on Education adopted on 17 March 2011 (Official Gazette *Valstybės žinios*, 2011, No. 38-1804) stipulates new provisions:

Article 30. The right to study in the state language and in the mother tongue

1. Each citizen of the Republic of Lithuania, also each alien having a permanent or temporary residence permit in the Republic of Lithuania shall be guaranteed instruction in the state language and study of the state language.

The version of paragraphs 2 and 3 of Article 30 of the Law on Education, effective as of 1 September 2011, states the following:

“2. Comprehensive and non-formal education schools shall create the conditions for pupils belonging to national minorities to foster their national, ethnic and linguistic identity, study their mother tongue, history and culture. At those comprehensive and non-formal education schools, the by-laws of which (respecting the requests of parents (guardians, foster carers) and learners) provide for instruction in the language of the national minority and teaching the language of the national minority, and the teaching process is conducted or certain subjects are taught in the language of the national minority. The subject of the Lithuanian language is a constituent part of the curriculum at such schools and it is allotted at least the same number of hours as for the subject of the mother tongue.

In such schools:

1) at least 4 hours per week are allotted for the instruction in the Lithuanian language in the pre-primary education curriculum. Part of the pre-school education curriculum, upon the parents' (guardians', foster carers') request, may be implemented in the Lithuanian language;

2) primary, basic and secondary education curricula are implemented in the bilingual education mode: in the language of the national minority and the Lithuanian language. In the primary education curriculum, the Lithuanian language is taught in the integrated mode, whereas in the basic and secondary education curricula, it is

taught during classes covering the topics of Lithuanian history and geography, world cognition and fundamentals of citizenship;

3) upon the parents' (guardians', foster carers') request, other subjects in the primary, basic and secondary curricula are instructed in the Lithuanian language.

3. The Minister of Education and Science shall establish the procedure for the instruction in the Lithuanian language in comprehensive and non-formal education schools."

Implementation of the Law on Education

Measures have been developed for the implementation of this law. Funds from the budget of education and science have been allocated for the implementation of these measures, and additional funds have been requested from the Government of the Republic of Lithuania. The measures envisage the correction of general education plans concerning the increase of hours allotted for the teaching of the Lithuanian language in pre-primary, primary, basic and secondary education curricula as of 1 September 2011:

- The law provides for at least 4 hours per week for the instruction in the Lithuanian language in pre-primary education curricula;
- The number of lessons of teaching the Lithuanian language is increased in primary and basic education curricula by adding one lesson;
- A common Lithuanian language curriculum is introduced in form 11 (form 3 of the high school), thus additional up to 1.5 hours per week have been envisaged for the teaching of the Lithuanian language (3 hours within two years in forms 11–12).

Measures have been envisaged for the professional development of teachers of pre-primary and primary classes, Lithuanian, History and Geography.

The provision of teaching aids – textbooks, readers, curriculum literature, dictionaries, directories, encyclopaedias, visual aids (films, audio records, etc.), etc. – for schools of national minorities has also been envisaged.

Schools are encouraged to instruct other subjects in Lithuanian and search for other possibilities of teaching the Lithuanian language (school cooperation projects, school and class exchange, educational programmes in museums, extended day groups, etc.).

With regard to the above, the possibility of ratification of this paragraph of the Charter should be considered.

Opinion of the Committee:

The undertaking of States under this paragraph is to promote and facilitate the teaching, in schools or other structures, such as voluntary associations, of those languages that are most represented among migrants within their territory.³⁶ In practical terms, States should therefore promote and facilitate the teaching of the mother tongue where there are a significant number of children of migrants who would follow such teachings.

In light of the above, the Committee considers that Lithuania would be in a position to accept Article 19§12.

³⁶ Conclusions 2002, Italy, pp. 102-103.

Article 23

Situation of Lithuania:

Although separate aspects of the policy for the elderly have been analyzed and implemented since restoration of the Independence (1990), however, the guidelines of a modern policy for the elderly in Lithuania were shaped only in 2004 when the Government of Lithuania adopted the National Strategy of Overcoming the Consequences of Ageing. The Strategy addresses the population ageing problem in complex manner, envisaging the implementation of measures in various fields of activity: guaranteeing adequate income in old age; providing adequate social protection; arranging labour market so as to take maximum advantage of the professional skills developed by the elderly, promoting life-long learning; ensuring equal access to high quality health and social care; promoting intergenerational solidarity; supporting individuals and communities taking care of the elderly; and also envisaging to stimulate the elderly to be more active in the society, foster their social inclusion and independent living.

Organizations representing interests of the elderly and acting at national level play a very crucial role involving the elderly into active social life. They organize campaigns to increase an image of seniors in the society, organize conferences on increasing skills of improving representation and cooperation with local government, arranges support for the lonely people, crisis experiencing and fostering them relatives, support seniors' art collectives and clubs. Some of those organizations collaborate with the networks of European level, organize exchanges with the partners abroad.

In order to implement the goals of the National Strategy of Overcoming the Consequences of Ageing mentioned above, an Implementation plan of the Strategy 2005 – 2013 was drawn up. One of the means of the Strategy encouraging active involvement of the elderly to the society is a program aiming to support activities of the organizations representing the elderly, that was launched in 2005. The program encourages the elderly to join non-governmental organizations, to participate in cultural and political life, promotes their involvement in various consultative councils at national and local levels. Moreover, the program encourages creation of non-governmental organizations and clubs for the elderly, where they could have a space for interaction, sharing information and experience. Especially important aspect of the elderly activities is development of voluntary activities in order to support each other and to act accordingly to their interests and capabilities.

The budget assigned to the program has been increasing (256 000 Litas in 2009) since its launching. However in 2010 allocations were decreased due to complicate economical situation. Every year the largest organizations unifying the elderly, having their branches all across Lithuania and uniting around 100 000 members are funded (contracting the tender). It is worth to mention that separate organizations of the elderly had an opportunity to implement voluminous training projects financed from EU structural funds.

Pensions

State social insurance old-age pension (paid from the budget of the State Social Insurance Fund) or social assistance pension (paid from State budget fund) may be

awarded and paid for persons that attained old-age retirement age. State social insurance old-age pensions are awarded for persons that acquired 15 years of the minimum record of state social pension insurance (Law on State Social Insurance Pensions, Official Gazette, No.59-1153, 2005, No.71-2555). The amount of state social insurance old-age pension depends on the person's record of state social pension insurance and on the person's insured income.

In order to increase low state social insurance old-age pensions to persons, who had low insured income and acquired a considerable state social pension insurance period, as of 1 July 2007, the calculation of pensions for the insured period was supplemented with a bonus for the years exceeding 30 years of state social pension insurance period. In addition to the above, the Law on State Social Insurance Pensions of 1 July 2007 introduced an amendment establishing the right to recalculate the state social insurance old-age pension for persons having acquired an additional state social insurance year (the previous requirement was to acquire 2 additional state social insurance years). This amendment established the right to recalculate pensions more often and for more pension recipients.

Table 23.1 Expenses for state social insurance old-age pensions and survivors' pensions in 2006-2010

	2006	2007	2008	2009	2010*
Average old-age pension, LTL	476.88	595.41	769.66	811.12	746.29
Old-age pensions, thousand LTL	3 401 533.4	4 264 513.1	5 507 503	5 864 837	5 395 963.9
Survivors' pension, thousand LTL	155 342	225 236	222 906	220 452	202 784.8
Total amount of expenses for old-age and survivors' pensions, thousand LTL	3 556 875,4	4 489 749.1	5 730 409	6 085 289	5 598 748.7

* Considering the difficult economic situation in the country, the Temporary Law on Recalculation of Social Benefits was adopted with effect as of 1 January 2010. The Law stipulates that until there is the exceptional situation (economic crisis) in the country, social benefits (including state social insurance old-age and survivors' pensions) are cut by the amount necessary to ensure vital public interests and protect other fundamental values. This is the reason of a decrease in expenses on the state social insurance old-age and survivors' pensions in 2010, if compared to the previous year.

According to the data of the budget implementation report of the State Social Insurance Fund of the Republic of Lithuania.

Table 23.2 Breakdown of state social insurance pensions according to the type of pensions in 2010

Expenses on social insurance pensions (thousand LTL)		7 659 907,1
1.	Old-age pensions	5 395 963.9
2.	Work incapacity (invalidity) pensions	1 724 710.6
3.	Survivors', orphans' and loss of	396 090.4

	breadwinners' pensions	
	3.1. Loss of breadwinners' pensions	42 807.4
	3.2. Survivors and orphans' pension.	353 283.0
	- survivors'	202 784.8
	- orphans'	150 498.2
4.	Retirement pensions	4 674.0
5.	Compensations for extraordinary work conditions	44 734.7
6.	Funeral benefit in case of death of a pensioner	28 296.5
7.	Early old-age pension	64 537.9
8.	Means for SSIF ³⁷ acquired pension rights	899.1

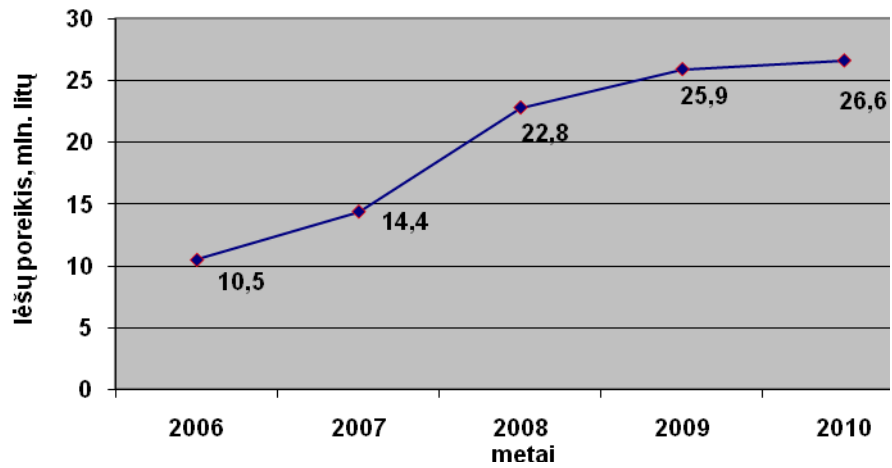
Attention should be paid to the fact that in the period from 1 January 2006 to 31 December 2010 the amount of the basic state social insurance pension was revised a number of times and increased. Since 1 July 2006, the basic state social insurance pension has been increased from LTL 230 to LTL 360. The insured income of current year, which is applied when calculating the additional part of the pension, is also revised on an annual basis. Within the period from 2006 to 2009, the amount of the insured income of the current year increased from LTL 1 148 to LTL 1 488, whereas in 2010, due to the economic crisis, the temporary amount of the insured income of the current year reaching LTL 1 170 was applied.

As of 1 January 2006, persons, who are not entitled to any type of pension and who have reached the age of old-age pension, are awarded and paid social assistance pensions (Law on Social Assistance Pensions, Official Gazette, *Valstybės žinios*, 1994, No. 96-1873; 2005, No. 71-2556), thus providing these persons with certain pension guarantees upon the moment they reach the age of old-age pension. These persons are awarded with the social assistance pension of 0.9 of the basic pension. The Law on Social Assistance Pensions also stipulates that the persons awarded with pension (state social insurance, state, foreign state pension or other pension-related benefits) the amount of which (or the total amount of the pensions received) is lower than the amount of the assistance pension, are paid the amount equal to the difference between the social assistance pensions and the awarded pensions and (or) pension benefits (the total amount of pensions). As of 2006, the number of persons of old-age pension age entitled to the social assistance pension have increased by 45 percent (from 4 933 persons in 2006 to 7 192 – in 2010).

³⁷ SSIF - The State Social Insurance Fund

Figure 23.3 State budgetary funds used for social assistance benefits in 2006-2010

Šalpos pensijoms mokėti panaudotos valstybės biudžeto lėšos 2006-2010 m.

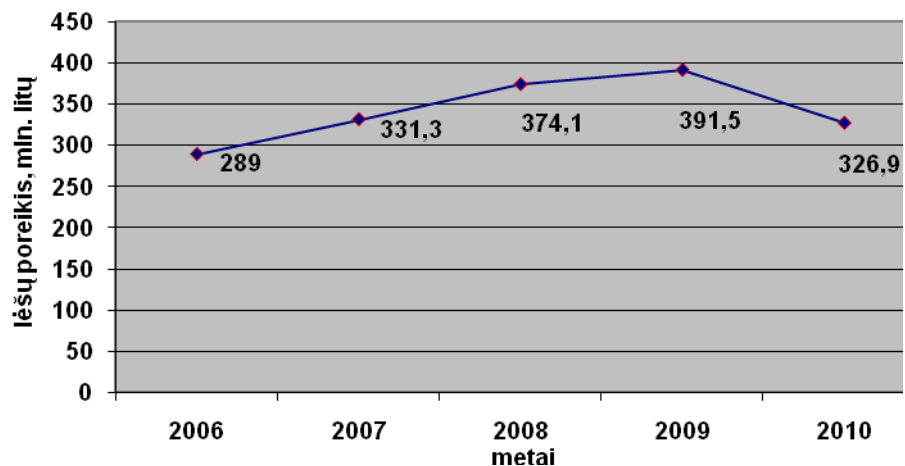


Demand for funds, million, LTL
 Data from the Ministry of Social Security and Labour

Representatives of certain professions having reached the old-age pension (officers and soldiers, scientists, lawyers), distinguished persons or victims are awarded with additional state pensions financed from the state budget.

Figure 23.4 State budgetary funds used for state pensions in 2006-2010

Valstybinėms pensijoms mokėti panaudotos valstybės biudžeto lėšos 2006-2010 m.



Demand for funds, million, LTL
 Year

Therefore, pursuant to the legal acts of the Republic of Lithuania governing pension allocation and payment to all persons, ensures the right of persons having reached the age of old-age pensions to pensions. In some cases, a person can receive up to four pensions: state social insurance old-age pension (from the State Social Insurance Fund), state pension and state survivors' pensions (from the state budgetary funds).

Health Care

Pursuant to Item 1 of paragraph 4 of Article 6 of the Law on Health Insurance of the Republic of Lithuania, persons entitled to any type of pension or relief compensation in compliance with the procedure established in the laws of the Republic of Lithuania are covered with the compulsory insurance from the state funds.

Pursuant to the Implementation Measures Plan for 2006-2008 Programme of the Government of the Republic of Lithuania, draft legal acts governing the provision of palliative care services were produced (Order No. V-14 of 11 January 2007 of the Minister of Health of the Republic of Lithuania (Official Gazette, *Valstybės žinios*, 2007, No. 7- 290) approving the Description of Requirements for Provision of Palliative Care Services to Adults and Children. The purchase of these services from the Compulsory Health Insurance Fund budget was enacted by Order No. V-470 of 16 May 2008 of the Minister of Health (Official Gazette, *Valstybės žinios*, 2008, No. 59-2247) approving the Pricelist of Palliative Care Services to Adults and Children.

The Description of Requirements for the Provision of Care Services in Outpatient Health Care Institutions and Homes was approved by Order No. V-1026 of 14 December 2007 of the Minister of Health. The expenses for these services provided to persons for whom the need of permanent nursing has been established are covered from the budget of the Compulsory Health Insurance Fund. All the above is aimed at improving the life quality of patients in the surroundings familiar to them and encouraging their self-care.

While improving the provision of specialised stationary services to elderly persons, Special requirements for the Provision of Services Related to Geriatrics and the Basic Price of these Services from the Compulsory Health Insurance Funds were approved by Order V-117 of 10 February 2011 of the Minister of Health (Official Gazette, *Valstybės žinios*, 2011, No. 19-934).

Family physicians or specialising physicians working in medical institutions having concluded contracts with territorial patients' funds are entitled to issue medical products and medical aids reimbursed by the Compulsory Health Insurance Fund. The Compulsory Health Insurance Fund subsidises only acquisition expenses of the medical products included into the List of Diseases and Reimbursed Medicinal Products for Treatment of the Diseases (A) and the List of Reimbursed Medicinal Aids (B). Reimbursed medicinal aids are included into a separate list of Reimbursed Medicinal Aids (C). Attention should be paid to the fact that the List of Reimbursed Medical Products (B) is aimed for patients of separate social groups, whose financial possibilities for purchasing one or another medicinal product are low. These groups include children, pensioners and the disabled. The basic price of some medicinal products (not included into the List A) for the patients of the social groups specified in this list, i.e. pensioners, residents entitled to 2nd disability group pension, or partially disabled persons whose capacity for work is rated at up to 30-40 percent as well as persons entitled to social assistance pensions is reimbursed at a rate of additional 50 percent.

It should be emphasised that irrespective of the list of reimbursed medical products (A or B) or irrespective of the percent (indicated in the lists A or B) the medical products

are reimbursed, pursuant to the provisions of paragraph 2 of Article 10 of the Law on Health Insurance of the Republic of Lithuania, children under 18 years of age and persons rated as incapable to work as well as pensions rated as having high-level special needs are entitled to 100 percent reimbursement of the basic price of the medicinal products included into the above lists.

Cash social assistance

In order to decrease social exclusion and pursuant to the Law on Cash Social Assistance to Poor Families and Single Residents, elderly people as well as poor families and single residents, whose working, social insurance and other revenues are insufficient due to objective reasons, are entitled to social benefits, compensations for heating of a dwelling, hot and cold water expenses which facilitate the burden of dwelling maintenance.

In order to intensify the process of renovation (modernisation) of multi-dwelling buildings and ensure the participation of poor residents and their interest in saving as well as in possibilities for decreasing heat consumption, provisions of the Law on Cash Social Assistance for Poor Families and Single Residents regarding the state aid when repaying loans and interests to poor families participating in a project of renovation (modernisation) of a multi-dwelling building when dwelling owners are entitled to compensations for the expenses of heating of a dwelling were revised in 2009.

Social services

Allowances and services for persons of retirement age make 40 percent of expenditure on social security. In 2009, these expenses reached LTL 7 659 million, and, if compared to 2008, they increased by LTL 487 million (7 percent). Such an increase was primarily determined by increasing expenses on cash benefits. Over the last year, with continuously increasing basic state social insurance pension and the ensured income of the current year, the state social insurance old-age pension, if compared with 2008, increased by LTL 41 on average (5 percent) and reached LTL 811 in 2009.

In order to keep elderly people living in their homes for as long as possible and avoid the necessity of stationary services, the municipality provides social services at home. In 2009, a total of 10 800 persons were provided with such services at home.

Elderly people entitled to social care in compliance with the established procedure ("The Description of the Procedure for Establishing of an Individual's (Family's) Need for Social Care and Granting Thereof, and the Methodologies for establishing the Need of Social care for an Elder Person and an Adult with Disability" approved by Order No. A-94 of 5 April 2006 of the Minister of Social Security and Labour of the Republic of Lithuania), are sent to social care institutions. The need for social care is established according to the criteria of a person's social or physical independence. Care institutions and homes for independent living.

Table 23.5 as of year-end

	2008	2009
<i>Care institutions for elderly people</i>	104	103

	2008	2009
Number of residents	5 047	5 004
County care homes	8	8
Number of residents	1 738	1 670
Other care institutions ¹	5	5
Number of residents	242	264
Municipal care homes	56	54
Number of residents	2 170	2 145
Care homes of public organisations and parishes	35	36
Number of residents	897	925
Homes for independent living ²	9	13
Number of residents	212 ³	230

¹ Care homes for elderly people “Tremtinių namai”, “Užusaliai” and “Senjorų rezidencija”, Marijampolė special care home, Centre of Gerontology and Rehabilitation.

² Institutions home-like for persons (families) providing them with conditions for independent living with partial assistance of a social worker.

³ Annual number of residents.

Data of the Department of Statistics under the Government of the Republic of Lithuania

According to the data from the Department of Statistics, at the end of 2009, 103 social care homes for the elderly people operated and housed 5 004 persons. The majority of these homes (52) were established by municipalities, 35 – by non-governmental organisations and parishes, and the rest were established by county governors, private-owned, etc. More independent elderly people prefer living in homes for independent living. In 2009, a total of 13 homes for independent living for elderly people and the disabled operated in Lithuania.

The number of care homes for elderly people in counties has not changed over the recent years; however, the number of municipal care homes for elderly people is increasing. In 1991, 3 municipal care institutions were operating in Lithuania, whereas, in 2004 this number reached a total of 55 care homes for elderly people. At present, stationary care services for elderly people are provided in 56 municipalities, and there are 14 stationary places per 10 000 Lithuanian residents, whereas, in 1990, this number reached only 6 places per 10 000 residents.

Since 2007, the following target grants have been allocated to municipalities for the organisation of social care for persons with sever disabilities: LTL 13 484 million in 2007, LTL 24 411 million in 2008, and LTL 30 669 million in 2009.

The institution of the county governor’s administration was eliminated on 1 July 2010, and part of its functions related to the organisation of social services was delegated to the Ministry of Social Security and Labour. Municipalities became responsible for the other part of services. The above reorganisations were aimed at decreasing administration expenses as well as at placing responsibility for the organisation of social services on municipalities thus ensuring the principle of social services organisation and availability for persons (families) as close to their place of residence as possible.

Pursuant to amendments to the Law on Social Services, on 1 July 2010, 21 municipalities took over the rights and obligations of the owners of county budgetary social care institutions. The state property owned by the ownership right and managed by these institutions by the trust right has also been transferred into the ownership of municipalities. The rights and obligations of 25 child care homes and 3 care homes for elderly people were transferred to municipalities.

As of 1 July 2010, activities of state social care institutions are administered by the Administration Office of Social Care Institutions under the Ministry of Social Security and Labour.

There is quite a big number of municipalities where care problems of the elderly are solved through creation of social services institutions – alternatives for stationary care – day centres, community centres, or social services centres are established on the basis of stationary care institutions, and they provide non-stationary services. In 2009, a total of 90 community centres, about 60 social care or social day care centres for elderly people operated in Lithuania. Day centres create a possibility of improving the quality of such people's lives, because there old people have a chance to communicate, solve the arising problems together, thus helping themselves and others.

In 2009, 2 921 persons were employed by social care institutions for elderly people, out of which 980 social workers and 701 assistants to social workers.

The quality of services provided by social care institutions is supervised by the Department of Supervision of Social Services under the Ministry of Social Security and Labour.

Social care should be provided by the social care institutions, whose social care complied with social care norm (standards) approved by an order of the Minister of Social Security and Labour. Social Care Norms seeks to ensure the life quality of social care recipients, both when receiving social care at establishments and at home, and regulate qualitative requirements not only for buildings, premises, catering, etc., but also for the protection of rights of those persons. As of 2015, social care shall be a licensed activity. Social care norms shall be one of the major conditions of the licensed activity.

State support for the acquisition of housing

The Law on State Support for the Acquisition or Rental of Housing and Modernisation of Multi-Dwelling Buildings of the Republic of Lithuania stipulates that the state support is granted irrespective of the beneficiary's age. Pursuant to the above law, persons having reached the age of old-age pension and having been rated as having special needs, are entitled to a subsidy for the compensation of a share of a housing loan.

The state support for the acquisition of housing does not comply with the provisions of the Charter; therefore, we believe that this Article should not be ratified.

Opinion of the Committee:

Article 23 protects the rights of the elderly. The measures envisaged by this provision, by their objectives as much as by the means of implementing them, point towards a new and progressive notion of what life should be for elderly persons, obliging the Parties to devise and carry out coherent actions in the different areas covered. It is a dynamic provision in the sense that “the appropriate measures it calls for may change over time in line with a new and progressive notion of what life should be for elderly persons.”³⁸

Article 23 overlaps with other provisions of the Charter which protect elderly persons as members of the general population, such as Article 11 (Right to protection of health), Article 13 (Right to social and medical assistance) and Article 12 (Right to social security). Article 23 requires states to make focused and planned provision in accordance with the specific needs of elderly persons.

One of the primary objectives of Article 23 is to enable elderly persons to remain full members of society. The expression “full members” means that elderly persons must suffer no ostracism on account of their age. The right to take part in society’s various fields of activity should be granted to everyone active or retired, living in an institution or not. The effects of restrictions to the legal capacity should be limited to the purpose of the measure.

On a general level, the Committee has examined national policies for the elderly and the level and development of national expenditure for social protection and services for the elderly, as well as measures to allow/encourage elderly persons to remain in the labour force.³⁹

Non-discrimination legislation (or similar legislation) should exist at least in certain domains protecting persons against discrimination on grounds of age.⁴⁰

Elderly persons at times may have reduced capacity making powers or no such powers or capacity at all. Therefore, there should exist a procedure for ‘assisted decision making’ for the elderly.⁴¹

In light of the above, the Committee considers that Lithuania would be in a position to accept Article 23.

³⁸ Conclusions XIII-5, Statement of Interpretation on Article 23, p. 455.

³⁹ Conclusions XIII-5, Finland, p. 305

⁴⁰ Conclusions 2003, France, p. 186.

⁴¹ Conclusions 2003, France, p. 186.

Article 30

Situation of Lithuania:

Within the reporting period (2006-2010) Lithuania participated in the social policy of the European Union coordinated by means of the open method of coordination. Similarly to other Member States, Lithuania drafted reports on Strategies of Lithuania for Social Protection and Social Inclusion for the periods of 2006-2008 and 2008-2010. The process of report drafting involved representatives from state institutions as well as a wide range of representatives of social partners including non-governmental organisations, the activities of which are related to problems of social exclusion, provision of services to socially vulnerable groups of residents, as well as representatives of trade unions, business representative and representatives of employers' associations.

The economic recession, which started in the second half of 2008, the shortfall of financial resources, the increasing rate of employment, which led to the growing number of recipients of social benefits, increased the number of persons experiencing temporary poverty and living at the risk of social exclusion.

When evaluating its poverty level, Lithuania uses the comparative data of EU levels, which are received by conducting a Research of Income and Living Conditions. According to the research data for 2007-2009 (revenue data for 2006-2008 were used), the at-risk-of-poverty rate was increasing from 19.1 percent to 20.6 percent. The highest risk of poverty is among the unemployed, single persons without children or single parents bringing up children. The territorial differentiation of the risk of poverty is high, since the risk of poverty in rural areas is threefold higher than the risk of poverty in the major cities. Children (0-17) and persons aged 65 and above are the age groups experiencing the highest risk of poverty. Every fourth person from these age groups experiences the risk of poverty, whereas, every fifth person faces this risk in the age group from 50-64.

Table 30.1 Risk-of-poverty rate according to the place of residence, household composition, age groups and occupancy, percents

	2007*	2008*	2009*
All persons	19.1	20.0	20,6
Place of residence			
City	12.7	13.6	14.7
major cities	7.9	10.1	10.5
other cities	19.7	18.7	20.7
Rural areas	32.2	32.9	32.7
Household type			
Households without children	20.2	21.0	21.1
Single person	49.5	47.7	46.9
Two adults younger under 65 without children	10.6	14.8	17.4
Two adults with at least one being 65 or above without children	13.4	16.5	9.8
Other households without children	6.6	7.2	10.1
Households with children	18.5	19.4	20.3
One adult with 1 or more children			

	2007*	2008*	2009*
	41.5	48.3	46.4
Two adults with 1 child	14.0	12.5	13.4
Two adults with 2 children	12.7	13.2	19.1
Two adults with 3 or more children	38.2	46.0	32.9
Other households with children	14.4	15.0	16.4
Age groups			
0–17	22.1	22.8	23.7
18–24	15.5	17.8	17.8
25–49	14.9	14.7	17.6
50–64	17.2	20.4	21.0
60 and above	29.8	29.5	25.2
According to occupancy rates (18 and above)			
Employed	8.0	9.4	10.4
Unemployed	56.9	50.9	54.3
Old-age pensioners	29.8	30.8	27.6
Other inactive persons	28.9	31.3	33.5
At-risk-of-poverty gap	25.7	25.7	23.1
At-risk-of-poverty threshold, LTL			
Per a single resident	566	720	831
Per family (two persons with children under 14)	1188	1512	1746
Per one family member	297	378	436.5

The research of income and living conditions of residents performed by the Department of Statistics uses the previous data on the revenues of households participating in the research.

State assistance

One of the main factors negatively influencing the life quality of a family (a person) is low income. Therefore, the state provides support to low income families bringing up children and single residents (families bringing up children receive child benefits, poor residents receive cash social assistance, pupils from low-income families are provided with free meal and school supplies).

In order to reduce social exclusion and the poverty risk and to increase social assistance, the amount of the state supported income (hereinafter referred to as the SSI) has been increased. The amount of the SSI is the basic amount used for the calculation of cash social assistance rendered to poor persons (social benefits and compensations covering heating expenses of a dwelling), for the establishment of the right of pupils from low-income families to receive free meals in schools and school supplies, and for the establishment of the right to receive free legal assistance, as well as for the calculation of unemployment insurance benefits provided for the unemployed registered with labour exchanges.

As of 1 February 2006, the amount of the SSI was increased by LTL 10 from LTL 155 to LTL 165. As of 1 October 2006, the amount of the SSI was increased by LTL 20 to LTL 185. As of 1 January 2007, it was increased by additional LTL 20 reaching LTL

205. As of 1 October 2007, the amount of the SSI was increased by LTL 30 to LTL 235. As of 1 January 2008, this amount was increased by 50 LTL to LTL 285, and as of 1 August 2008, this amount reached LTL 350 per person.

With increases in basic amounts of benefits, the state assistance provided to residents of Lithuania related with these amounts also increases (for example, the social benefit for poor residents has increased, more pupils have become entitled to free meal in schools, and compensations for heating expenses of a dwelling have also increased during the heating period, etc.).

In order to ensure the efficient use of the state assistance and protect children of families at social risk, the laws regulating cash social assistance stipulate that benefits to families at social risk are provided in compliance with the procedure established by the councils of municipalities by combining monetary and non-monetary forms of assistance provision. Municipalities form commissions from representatives of various fields, which take decisions on whether a family should be rated as an at-social-risk family and chose the way of benefit payment. Social benefit to these families is not provided in cash. They receive it in an alternative, i.e. non-monetary, form (food products, clothing, other necessary goods, etc). It has a disciplinary effect on families and helps ensure that the provided state assistance is used for the intended purposes.

As of 1 January 2008, child benefits are provided to all children studying in schools of general education. In 2008, approximately 624 200 children received a monthly benefit. However, taking into consideration the economic and financial recession and seeking to ensure assistance to the most vulnerable society members, the Regulations for the Award and Payment of Benefits to Children were revised in 2009 and the provision stipulating that a child benefit can be granted only after the income of his or her family has been assessed was enacted. As of 1 March 2009, after having assessed family income, child benefits were paid to children over 3 years of age, and as of 1 January 2010, this benefit was awarded to children between 2-7 years of age, whereas, children from large families are entitled to this benefit until they are 18 years old if the average yearly income of the previous calendar year of their family or people living in common law relationship is lower than 1.5 of the SSI, i.e. LTL 525. Children from birth to 2 years old are entitled to child benefits if none of their parents receives maternity (paternity) social insurance benefit or if it is lower than LTL 525. In 2009, approximately 495 300 children (71 percent of all children in Lithuania) received monthly child benefits. Over 2010, if compared to 2009, the monthly decrease in the number of child benefit recipients reached almost 3.26 times (from 495 300 children to 152 000), and expenses for this benefit decreased by approximately 3.7 times (from LTL 469.2 million to 127.3 million).

The legalisation of such provisions allows mitigating the consequences of the economic recession for families bringing up children, especially for families, who have faced social and economic problems, i.e. have low income, and who are recipients of social benefits and social assistance to pupils. Pupils above 7 years of age from low-income families are entitled to another state assistance – social assistance to pupils. These regulations are only one of the measures ensuring the balance of the state budget.

In order to reduce social exclusion and differentiation between separate groups of pupils and to improve the availability and quality of social assistance to pupils, as of 1 July 2008, the right to have free lunch was granted to all pupils studying according to pre-primary and primary education curricula, irrespective of family income level. However, in the context of the economic crisis and having assessed limited financial possibilities of the state and the current economic situation in the country, when it is not impossible to accumulate the amount of the funds enough to provide all primary pupils and children in pre-primary institutions with free lunch, and seeking to ensure state assistance to low-income families bringing up school-aged children, amendments to the Law on Social Assistance for Pupils entitling to free lunch only children from low-income families, whose monthly income per one family member is less than 1.5 of the SSI (LTL 525) were adopted.

In 2008, approximately 210 000 pupils (about 43 percent of all pupils) were entitled to free lunch, out of which 151 000 pupils studying according to pre-primary and primary curriculum.

In 2008, if compared to 2007, the number of pupils entitled to free lunch increased by 153 percent, i.e. from 83 000 to 210 000, free breakfast – by 132 percent, i.e. from 25 000 to 58 000. It was determined by the provision of the Law on Social Assistance for Pupils valid between 1 July 2008 and 31 December 2008, which provided the right to free lunch to all pupils studying according to primary and pre-primary curriculum.

In 2010, if compared to 2009, the number of pupils entitled to free meal increased from 136 000 to 144 400 (by 6 percent), whereas the number of pupils entitled to free breakfast decreased from 85 000 to 8 300 thousand (90 percent), since, pursuant to the amendments to the law as of 1 January 2010, the right to free breakfast is provided only by the decision of administrations of municipalities in exceptional cases.

Moreover, in order to reduce social exclusion and improve the system of cash social assistance, the provisions regarding the calculation of family income thus creating more favourable conditions to receive cash social assistance (the amendments specify that the income calculated in order to establish the right to assistance do not include the income of pupils studying in schools of general education or vocational institutions according to vocational curricula for the first qualification, work-related income, nursing or attendance (assistance) expenses, child benefits, social grants and assistance in cash) were revised in 2008. With non-inclusion of the above revenues into family income, cash social assistance to poor families bringing up children and the most vulnerable groups of residents has increased, and more families and single residents, for whom the inclusion of the above revenues became an obstacle to receive cash social assistance, became entitled to cash social assistance. These provisions are aimed at reducing poverty and social exclusion.

In the context of the crisis and with increasing unemployment rates and decreasing personal income, the number of beneficiaries of social benefits and compensations of expenses on housing heating and water and the state expenses on this assistance has increased. Over 2010, the amount of LTL 642.4 million, i.e. 67.8 percent of all expenses on cash social assistance, were spent on social benefits, compensations for housing heating expenses and cash assistance from municipal budgets, which are paid to poor residents after having assessed their property and income (in 2009, the expenses for these benefits amounted to 30.5 percent of all expenses on cash social

assistance). Pursuant to the Law on Cash Social Assistance for Poor Families and Singles residents of the Republic of Lithuania (Official Gazette, *Valstybės žinios*, 2006, No. 130-488), in 2010, the average monthly number of recipients of social benefits reached 181 300 persons (5.4 percent of all permanent residents of Lithuania). The average monthly increase in the number of social benefits beneficiaries increased by 2.5 times (from 73 500 to 181 300) if compared to 2009.

In 2010, the average number of recipients of compensations for housing heating expenses reached 166 500 persons (5 percent of all residents of Lithuania). Over 2010, if compared to 2009, the average monthly number of recipients of compensations for housing heating expenses increased by 27.8 percent (from 130 300 to 166 500 persons).

Social services

In 2009, the total amount of LTL 398 153 thousand was allocated for the decrease of social inclusion (to temporary residence institutions, rehabilitation centres for drug addicts, integration and rehabilitation of persons ill with addictive resources, other social services to risk groups and socially supported persons).

In 2009, 23 lodging houses with almost 2 000 residents operated in Lithuania. In addition, an average of 94 (in 2005 – 111) persons were daily provided with a temporary night shelter.

In 2009, about 1 900 persons were provided with temporary shelter in 24 crisis centres. In addition, another 4 600 thousand persons were provided with social services without accommodation (psychological assistance, consultation, etc.). Seventeen psychological and social rehabilitation centres accommodated 500 persons ill with addictive disorders.

Since 2007, municipalities have been staffed with social workers for the work with families at social risk.

The number of these social workers has been increasing yearly: 556 positions in 2007, 613 in 2008 and – 613; 613 in 2009.

In 2009, families at social risk amounted to 11 100 (16 400 in 2005) with almost 24 000 children.

Health Care

The Law on Health Insurance of the Republic of Lithuania provides for a universal (compulsory) health insurance model based on the principle of solidarity. That means that health insurance contributions made by all citizens of the Republic of Lithuania and foreigners permanently residing in Lithuania and legally employed temporary residents of Lithuania as well as state budgetary funds are accumulated in the Compulsory Health Insurance Fund and allocated to cover the expenses on health care services or issued reimbursed medicinal products or medicinal aids of the insured persons. The system of health insurance assures that everyone is provided with the necessary amount of services irrespective of his or her contributions.

It should be emphasised that the most socially vulnerable persons, i.e. children, full-time students, the unemployed registered with the labour exchange, persons with the social pension insurance period necessary to receive pension, the disabled and other

persons with no income used to calculate health insurance contributions are insured with compulsory health insurance by state funds. It should be noted that over the last 10 years state contributions for one person insured with compulsory health insurance have increased fourfold: in 2001, this amount reached LTL 187.2, whereas, this year, this amount has reached LTL 744.7. The number of persons insured with state funds is continuously increasing. Currently, there are about 2.2 million of such persons in Lithuania.

Social housing

Article 30 of the Charter specifies measures aimed at decreasing social exclusion including the right to social housing. The Law on State Support for the Acquisition or Rental of Housing and Modernisation of Multi-Dwelling Buildings of the Republic of Lithuania promulgates this provision. However, the provided support related to social housing is not enough to totally overcome social exclusion. We believe that this article should not be ratified.

While evaluating the current situation related to poverty and the measures aimed at the reduction thereof, especially regarding insufficient social housing, Lithuania should not ratify this article.

Opinion of the Committee:

Living in a situation of poverty and social exclusion violates the dignity of human beings.⁴² Poverty means deprivation due to a lack of resources.⁴³

With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, Article 30 requires States Parties to adopt an overall and coordinated approach, which should consist of an analytical framework, a set of priorities and measures to prevent and remove obstacles to access fundamental social rights. There should also exist monitoring mechanisms involving all relevant actors, including civil society and persons affected by poverty and exclusion.⁴⁴ This approach must link and integrate policies in a consistent way, moving beyond a purely sectoral or target group approach.

The measures taken for such a purpose must promote and remove obstacles to access to fundamental social rights, in particular employment, housing, training, education, culture and social and medical assistance.⁴⁵ It should be noted that this is not an exhaustive list of the areas in which measures must be taken to address the multidimensional phenomena of poverty and social exclusion.

The measures should strengthen access to social rights, their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights and where necessary

⁴² Statement of Interpretation on Article 30, see in particular Conclusions 2003, France, p. 214.

⁴³ Statement of Interpretation on Article 30, see in particular Conclusions 2005, France, p. 261.

⁴⁴ Statement of Interpretation on Article 30, see in particular Conclusions 2003, France, p. 214.

⁴⁵ Statement of Interpretation on Article 30, see in particular Conclusions 2003, France, p. 214.

specifically target the most vulnerable groups and regions.⁴⁶ Access to fundamental social rights is assessed by taking into consideration the effectiveness of policies, measures and actions undertaken.⁴⁷

As long as poverty and social exclusion persist, alongside the measures there should also be an increase in the resources deployed to make social rights possible. Adequate resources are one of the main elements of the overall strategy to fight social exclusion and poverty, and should consequently be allocated to attain the objectives of the strategy.⁴⁸ Moreover, adequate resources are an essential element to enable people to become self-sufficient.

Finally, the measures should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country concerned.⁴⁹ In this respect the definitions and measuring methodologies applied at the national level and the main data made available are systematically reviewed. The at-risk-of-poverty rate before and after social transfers (Eurostat), is used as a comparative value to assess national situations.

In light of the above, the Committee considers that Lithuania would be in a position to accept Article 30.

⁴⁶ Statement of Interpretation on Article 30, see in particular Conclusions 2003, France, p. 214.

⁴⁷ Conclusions 2005, Norway, p. 580.

⁴⁸ Conclusions 2005, Slovenia, p. 674.

⁴⁹ Statement of Interpretation on Article 30, see in particular Conclusions 2003, France, p. 214.

Article 31§3

Situation of Lithuania:

97 percent of the Lithuanian housing sector is private. The state cannot regulate this sector, therefore, the ongoing development of social housing provides legal basis for the regulation of the rental price of social housing. Having analysed Article 31§3 providing for efficient fulfilment of the right to housing by developing conditions for a reasonable housing price for persons who have no financial resources we believe that it is an ambitious obligation which will require considerable appropriations.

At present, Lithuania should not ratify this article, since the issue of the right of persons with low income to a housing of a respective standard has not been resolved yet. A great number of low-income families are waiting for social housing.

Opinion of the Committee:

An adequate supply of affordable housing must be ensured for persons with limited resources.

Housing is affordable if the household can afford to pay initial costs (deposit, advance rent), current rent and/or other housing-related costs (e.g. utility, maintenance and management charges) on a long-term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located.⁵⁰

States must:

- adopt appropriate measures for the provision of housing, in particular social housing;⁵¹ social housing should target, in particular, the most disadvantaged;⁵²
- adopt measures to ensure that waiting periods for the allocation of housing are not excessive; legal and non-legal remedies must be available when waiting periods are excessive;⁵³
- introduce housing benefits at least for low-income and disadvantaged sections of the population.⁵⁴ Housing benefit is an individual right: all qualifying households must receive it in practice; legal remedies must be available in case of refusal.⁵⁵

All the rights thus provided must be guaranteed without discrimination, in particular as in respect of Roma or travellers.⁵⁶

⁵⁰ Conclusions 2003, Sweden, p. 655.

⁵¹ Conclusions 2003, Sweden, p. 656.

⁵² International Movement ATD Fourth World v. France, complaint n° 33/2006, decision on the merits of 5 December 2007, §§ 98-100.

⁵³ International Movement ATD Fourth World v. France, complaint n° 33/2006, decision on the merits of 5 December 2007, § 131.

⁵⁴ Conclusions 2003, Sweden, p. 656.

⁵⁵ Conclusions 2005, Sweden, p. 734.

⁵⁶ International Movement ATD Fourth World v. France, complaint n° 33/2006, decision on the merits of 5 December 2007, §§ 149-155.

In light of the above, the Committee considers that Lithuania may not be in a position to accept Article 31§3.

APPENDIX 1

LITHUANIA AND THE EUROPEAN SOCIAL CHARTER

Situation of Lithuania as of January 2012

Ratifications

Lithuania ratified the Revised European Social Charter on 29/06/2001. It has accepted 86 of the 98 paragraphs of the Revised Charter.

Lithuania has not yet signed or ratified the Additional Protocol providing for a system of collective complaints.

Table of accepted provisions

1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3						Grey = Accepted provisions				

The Charter in domestic law

Automatic incorporation into domestic law and superiority of International treaties ratified by the Seimas (Parliament) over national legislation (Article 138 of the Constitution and Article 11 of the Law on Treaties).

Reports *

Between 2003 and 2010, Lithuania submitted 8 reports on the application of the Revised Charter.

The [8th report](#), submitted on 23/11/2010, covers the accepted provisions related to Thematic Group 4 "Children, families, migrants" (Article 7, 8, 16, 17, 19 §§ 1, 3, 5, 7, 9, 10, 27 and 31). Conclusions in respect of these provisions were published in January 2012.

The 9th report, due by 31/10/2011, covers the accepted provisions related to Thematic Group 1 "Employment, training and equal opportunities", i.e.

- the right to work (Article 1),
- the right to vocational guidance (Article 9),
- the right to vocational training (Article 10),
- the right of persons with disabilities to independence, social integration and participation in the life of the community (Article 15),
- the right to engage in a gainful occupation in the territory of other States Parties (Article 18 §§ 1 and 4),
- the right of men and women to equal opportunities (Article 20),
- the right to protection in cases of termination of employment (Article 24),
- the right to workers to the protection of claims in the event of insolvency of the employer (Article 25).

Conclusions in respect of these provisions will be published in December 2012.

* [Following a decision taken by the Committee of Ministers in 2006](#), the provisions of both the 1961 Charter and the Revised Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

The situation of Lithuania with respect to the application of the Revised Charter

Examples of progress achieved in the implementation of social rights under the European Social Charter⁵⁷

Children

► Extension of the number of child allowance beneficiaries (Child Allowances Act, entry into force 1 July 2004).

Social and legal protection

► A draft Act on Protection from Domestic Violence was submitted to the Government on 12 May 2010. The purpose of the draft legislation is to respond quickly to violations, impose sanctions, provide appropriate support and take preventive measures to protect people from domestic violence. In addition, Government Resolution No. 853 of 19 August 2009 approved the Plan of Measures Implementing the National Strategy on Combating Violence against Women, 2010-2012. With a view to enhancing the legal framework in this area, there are plans to improve access to legal assistance for victims of domestic violence.

Cases of non-compliance

Thematic group 1 "Employment, training and equal opportunities"

► *Article 1§2 – Right to work - Policy of full employment*

Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

The employment rights of persons who have in the past been employed in the security services of the former Soviet Union are restricted beyond the scope of Article G.

([Conclusions 2008](#))

► *Article 1§4 (and 9 and 10§3) - Right to work - Vocational guidance, training and rehabilitation*

It has not been established that equal treatment is guaranteed to all nationals of States Parties and with regard to continuing vocational training for workers (Article 10§3) on the ground that it has not been established that the right to individual training leave is guaranteed to workers.

([Conclusions 2008](#))

► *Article 9 - Right to vocational guidance* It has not been established that equal treatment is guaranteed to all nationals of States Parties.

([Conclusions 2008](#))

► *Article 10§3 - Right to vocational training - Vocational training and retraining of adult workers*

It has not been established that the right to individual training leave is guaranteed to workers.

([Conclusions 2008](#))

► *Article 15§2 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Employment of persons with disabilities*

Legislation does not make reasonable accommodation of the workplace a requirement.

⁵⁷ « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure » (Article 2 of the Rules of the Committee).

[\(Conclusions 2008\)](#)

► *Article 15§3 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Integration and participation of persons with disabilities in the life of the community*

There is no general anti-discrimination legislation to protect persons with disabilities, which explicitly covers the fields of housing, transport, telecommunications and cultural and leisure activities.

[\(Conclusions 2008\)](#)

Thematic group 2 : "Health, social security and social protection"

► *Article 11§1 - Right to protection of health Removal of the causes of ill-health*

It has not been established that significant efforts are being made to increase life expectancy, which is significantly lower than in other European countries and which is not increasing sufficiently.

[\(Conclusions 2009\)](#)

► *Article 12§1 - Right to social security - Existence of a social security system*

- the minimum level of the unemployment insurance benefit is manifestly inadequate;
- the level of the old age state social insurance basic pension is manifestly inadequate.

[\(Conclusions 2009\)](#)

► *Article 12§4 – Right to social security - Social security of persons moving between states*

- entitlement to state social insurance pensions is subject to a residence requirement;
- the retention of accrued benefits related to work accidents, occupational disease, sickness or maternity for persons moving to a State Party which is not covered by Community regulations or not bound by an agreement with Lithuania is not guaranteed;
- it has not been established that nationals of States Parties not covered by Community regulations or bound by an agreement with Lithuania are entitled to accumulate insurance or employment periods completed in other countries.

[\(Conclusions 2009\)](#)

► *Article 13§1 – Right to social and medical assistance - Adequate assistance for every person in need*

- the level of social assistance paid to single persons without resources, including the elderly, is manifestly inadequate;
- the granting of social assistance benefits to nationals of other States Parties is subject to an excessive length of residence requirement.

[\(Conclusions 2009\)](#)

Thematic group 3: "Labour rights"

► *Article 2§1- Right to just conditions of work - Reasonable working time*

For some categories of workers a working day may be allowed of up to 24 hours.

[\(Conclusions 2010\)](#)

► *Article 4§1 – Right to a fair remuneration – Decent remuneration*

It has not been established that a decent wage is guaranteed to all workers. The minimum net wage is manifestly unfair.

[\(Conclusions 2010\)](#)

► *Article 4§5 – Right to a fair remuneration - Limits to deduction from wages*

In some cases, salaries of workers after deductions will not ensure means of subsistence for themselves and their dependants.

[\(Conclusions 2010\)](#)

► *Article 5 – Right to organise*

The requirement of thirty members to form a trade union is excessive and undermines the freedom to organise.

([Conclusions 2010](#))

► *Article 6§2 - Right to bargain collectively - Negotiation procedures*

Coverage of workers by collective agreements is weak.

([Conclusions 2010](#))

Thematic group 4: “Children, families and migrants”

► *Article 7§3 – Right of children and young persons to protection - Prohibition of employment of children subject to compulsory education*

Legal framework does not limit the period of work during summer holidays for children subject to compulsory education.

([Conclusions 2011](#))

► *Article 7§5 – Right of children and young persons to protection – Fair pay*

1. The minimum wage for young workers is not fair;
2. Minimum allowance for apprentices is not fair

([Conclusions 2011](#))

► *Article 16 – Right of the family to social, legal and economic protection*

There is no equal treatment of nationals of other States Parties in respect of the payment of family benefits because of an excessive residence requirement.

([Conclusions 2011](#))

► *Article 17§1 – Right of children and young persons to social, legal and economic protection - Assistance, education and training*

Corporal punishment of children is not prohibited in the home, in schools and in institutions..

([Conclusions 2011](#))

► *Article 31§1 – Right to housing – Adequate housing*

1. It has not been established that the right to adequate housing is effectively guaranteed;
2. Insufficient measures were taken by public authorities to improve the substandard housing conditions of most Roma in Lithuania

([Conclusions 2011](#))

► *Article 31§2 – Right to housing – Reduction of homelessness*

It has not been established that progress in reducing homelessness was achieved.

([Conclusions 2011](#))

The European Committee of Social Rights has been unable to assess compliance with the following rights and has invited the Lithuanian Government to provide more information in the next report in respect of the following provisions:

Thematic group 1 “Employment, training and equal opportunities”

(Report to be submitted before 31 October 2011)

- Article 10§2 – Conclusions 2008
- Article 18§4 – Conclusions 2008
- Article 25 – Conclusions 2008

Thematic group 2 : "Health, social security and social protection"

(Report to be submitted before 31 October 2012)

- ▶ Article 3§§2 and 3 – Conclusions 2009
- ▶ Article 11§2 – Conclusions 2009
- ▶ Article 14§1 – Conclusions 2009

Thematic group 3: "Labour rights"

(Report to be submitted before 31 October 2013)

- ▶ Article 4§2 – Conclusions 2010
- ▶ Article 6§4 - Conclusions 2010

Thematic group 4: "Children, families and migrants"

(Report to be submitted before 31 October 2014)

- ▶ Article 8§§1 and 2 – Conclusions 2011
- ▶ Article 17§2 – Conclusions 2011
- ▶ Article 19§§1 and 3 – Conclusions 2011

APPENDIX 2



**MEETING WITH REPRESENTATIVES OF THE LITHUANIAN GOVERNMENT
ON PROVISIONS OF THE REVISED EUROPEAN SOCIAL CHARTER
NOT ACCEPTED BY LITHUANIA
and
CELEBRATION OF THE 50TH ANNIVERSARY OF
EUROPEAN SOCIAL CHARTER AND 10TH ANNIVERSARY OF
IMPLEMENTATION OF THE CHARTER IN LITHUANIA**

Vilnius, 21st June (Tuesday) 2011 m.

PROGRAMME

Meeting on provisions of the European social charter not accepted by Lithuania: 8.30 - 13.30

Ministry of Social Security and Labour, A.Vivulskio str. 11 -201, Vilnius

8.30 - 8.40 OPENING REMARKS

Ms Audra Mikalauskaitė, Vice Minister of the Ministry of Social Security and Labour

8.40 - 9.30 EXCHANGE OF VIEWS ON NON-ACCEPTED PROVISIONS:

Article 12§2: Right to Social Security-maintaining the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security

Consideration of Lithuanian situation, ECSR conclusion

Article 13§4: Right to Social and Medical Assistance – equal treatment of nationals of other parties

Consideration of Lithuanian situation, ECSR conclusion

Article 18§2: Right to Engage in a Gainful Occupation in the Territory of other Parties – simplification of existing formalities and reduction of dues and taxes

Consideration of Lithuanian situation, ECSR conclusion

9.30 - 10.20 EXCHANGE OF VIEWS ON NON-ACCEPTED PROVISIONS:

Article 18§3: Right to engage in a gainful occupation in the territory of other parties-liberalisation of regulations

Consideration of Lithuanian situation, ECSR conclusion

Article 19§2: Right of Migrant Workers – measures to facilitate the departure journey and reception of migrant workers

Consideration of Lithuanian situation, ECSR conclusion

Article 19§4: Right of migrant workers – equal treatment of migrant workers in respect of employment

Consideration of Lithuanian situation, ECSR conclusion

10.20 - 10.40: Coffee Break

10.40 - 11.30 EXCHANGE OF VIEWS ON NON-ACCEPTED PROVISIONS:

Article 19§6: Right of Migrant workers – family reunion

Consideration of Lithuanian situation, ECSR conclusion

Article 19§8: Right of Migrant Workers – guarantees concerning deportation

Consideration of Lithuanian situation, ECSR conclusion

Article 19§12: Right of Migrant workers – teaching of migrant workers' mother tongue

Consideration of Lithuanian situation, ECSR conclusion

11.30 - 12.20 EXCHANGE OF VIEWS ON NON-ACCEPTED PROVISIONS:

Article 23: Right of Elderly Persons

Consideration of Lithuanian situation, ECSR conclusion

Article 30: Right to Protection against Poverty and Social Exclusion

Consideration of Lithuanian situation, ECSR conclusion

Article 31§3: Right to Housing – accessible housing for those without adequate resources

Consideration of Lithuanian situation, ECSR conclusion

12.20 - 12.30 CONCLUDING REMARKS

Celebration of the 50th and 10th anniversaries of European social charter 15.00- 17.00
 Seimas (Parliament) of the Republic of Lithuania, Gedimino ave. 53, I - Constitution's hall

14.20 Leaving hotel Ratonda

15.00 - 15.30 OPENING CEREMONY, Statements by:

Mr Donatas Jankauskas, Minister of Social Security and Labour

Ms Irena Degutienė, Speaker of the Seimas (Minister of Social Security and Labour at the time of signing of the Charter)

Ms Csilla Kollonay Lehoczky, Member of the European Committee of Social Rights

Mr Rimantas Jonas Dagys, Chairman of Seimas' Committee on Social Affairs and Labour

Mr Arminas Lydeka, Chairman of Seimas' Committee on Human Rights

15.30 - 16.30 Overview of implementation of European social charter in Lithuania

Preparation for the signing of the revised European social charter

Ms Elyra Baltutyte, Government Representative at European Court of Human Rights

First steps implementing the revised European social charter

Mr Povilas Vytautas Žiūkas, Doctor of Social Sciences, former Member of the Governmental Committee of the European Social Charter

Relevant issues implementing the revised European social charter

Ms K. Vyšniauskaitė-Radinskienė, Chief Specialist of International Law Division at MSSL, Member of the Governmental Committee of the European Social Charter

European social charter and a New Strategy for social cohesion of Council of Europe

Ms Rita Skrebiškienė, Director of International Affairs Department at MSSL, Member of the Bureau of the European Committee for Social Cohesion

16.30 - 17.00 Discussions, CLOSING CEREMONY

APPENDIX 3

**Declaration of the Committee of Ministers
on the 50th anniversary of the European Social Charter**

*(Adopted by the Committee of Ministers on 12 October 2011
at the 1123rd meeting of the Ministers' Deputies)*

The Committee of Ministers of the Council of Europe,

Considering the European Social Charter, opened for signature in Turin on 18 October 1961 and revised in Strasbourg on 3 May 1996 (“the Charter”);

Reaffirming that all human rights are universal, indivisible and interdependent and interrelated;

Stressing its attachment to human dignity and the protection of all human rights;

Emphasising that human rights must be enjoyed without discrimination;

Reiterating its determination to build cohesive societies by ensuring fair access to social rights, fighting exclusion and protecting vulnerable groups;

Underlining the particular relevance of social rights and their guarantee in times of economic difficulties, in particular for individuals belonging to vulnerable groups;

On the occasion of the 50th anniversary of the Charter,

1. Solemnly reaffirms the paramount role of the Charter in guaranteeing and promoting social rights on our continent;
2. Welcomes the great number of ratifications since the Second Summit of Heads of States and Governments where it was decided to promote and make full use of the Charter, and calls on all those member states that have not yet ratified the Revised European Social Charter to consider doing so;
3. Recognises the contribution of the collective complaints mechanism in furthering the implementation of social rights, and calls on those members states not having done so to consider accepting the system of collective complaints;
4. Expresses its resolve to secure the effectiveness of the Social Charter through an appropriate and efficient reporting system and, where applicable, the collective complaints procedure;
5. Welcomes the numerous examples of measures taken by States Parties to implement and respect the Charter, and calls on governments to take account, in an appropriate manner, of all the various observations made in the conclusions of the

European Committee of Social Rights and in the reports of the Governmental Committee;

6. Affirms its determination to support States Parties in bringing their domestic situation into conformity with the Charter and to ensure the expertise and independence of the European Committee of Social Rights;

7. Invites member states and the relevant bodies of the Council of Europe to increase their effort to raise awareness of the Charter at national level amongst legal practitioners, academics and social partners as well as to inform the public at large of their rights.