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European Social Charter (REVISED)

European Committee of Social Rights

Conclusions 2023

GEORGIA

This text may be subject to editorial revision.

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts conclusions; in respect of collective complaints, it adopts decisions.

Information on the Charter, the Committee, the national reports as well as the Statement of interpretation on Article 17 adopted by the Committee during the supervision cycle can be found in the General Introduction to all Conclusions.

In accordance with the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, the report requested from the States Parties concerned the following provisions of the thematic group IV " Children, families and migrants ":

- the right of children and young persons to protection (Article 7),
- the right of employed women to protection of maternity (Article 8),
- the right of the family to social, legal and economic protection (Article 16),
- the right of mothers and children to social and economic protection (Article 17),
- the right of migrant workers and their families to protection and assistance (Article 19),
- the right of workers with family responsibilities to equal opportunity and treatment (Article 27),
- the right to housing (Article 31).

The reference period was from 1 January 2018 to 31 December 2021.

The following chapter concerns Georgia, which ratified the Revised European Social Charter on 22 August 2005. The deadline for submitting the 16th report was 31 December 2022 and Georgia submitted it on 30 December 2022.

The Committee recalls that Georgia was asked to reply to the specific targeted questions posed under various provisions (questions included in the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter). The Committee therefore focused specifically on these aspects. It also assessed the replies to the previous conclusions of non-conformity, deferral and conformity pending receipt of information (Conclusions 2019).

In addition, the Committee recalls that no targeted questions were asked under certain provisions. If, in its previous conclusion (Conclusions 2019), the Committee concluded that the situation was in conformity, there was no examination in 2023.

The comments of the Public Defender's Office of Georgia, and the Georgian Young Lawyers' Association, Social Justice Centre and Partnership for Human Rights on the 16th report were registered on 29 and 30 June 2023 respectively.

Georgia has not accepted the following provisions from the above-mentioned group: 8§§1-2, 16, 17§2, 31§§1-3.

The conclusions relating to Georgia concern 29 situations and are as follows:

- 12 conclusions of conformity: Articles 7§2, 7§4, 7§§6-7, 7§9, 8§3, 19§3, 19§§5-6, 19§§8-9, 27§3.
- 17 conclusions of non-conformity: 7§1, 7§3, 7§5, 7§8, 7§10, 8§§4-5, 17§1, 19§§1-2, 19§4, 19§7, 19§§10-12, 27§§1-2.

Conclusions and reports are available at www.coe.int/socialcharter.

Article 7 - Right of children and young persons to protection

Paragraph 1 - Prohibition of employment under the age of 15

The Committee takes note of the information contained in the report submitted by Georgia as well as in the comments from the Public Defender's Office of Georgia.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions in relation to Article 7§1 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Children, families and migrants").

The Committee has observed that many States' legislation is in conformity with Article 7§1 of the Charter regarding the minimum age for employment. Nevertheless, the Committee is concerned about the situation in practice. There are data that suggest that in many countries there are significant numbers of children working illegally. However, there are few official data on the extent of the problem. Therefore, as targeted questions to the States, the Committee asked for information on the measures taken by the authorities (e.g. Labour Inspectorates and social services) to detect child labour, including children working in the informal economy. It also asked for information on the number of children actually working, as well as on measures taken to identify and monitor sectors where it is strongly suspected that children are working illegally.

In its previous conclusion (Conclusions 2019) the Committee considered that the situation was not in conformity on the following grounds:

- the prohibition of employment under the age of 15 does not apply to all economic sectors and all forms of economic activity;
- children under the age of 15 are permitted to perform light work for an excessive duration and therefore such work cannot be qualified as light;
- labour inspections supervising that the regulations on child labour are respected in practice are very limited and during the reference period were carried out only with the consent of the employer.

As regards the first finding of non-conformity, the Committee has previously (2019) noted that children working in the informal economy, or working on an unpaid basis, as well as those working on their own account, were excluded from the application of the provisions of the Labour Code.

According to the report, in 2019, the Code of the Rights of the Child was adopted, which, along with other rights, provides for the protection of children from harmful forms of labour. This law establishes the right of a child to be protected from work that prevents him/her from receiving education or is harmful to his/her health or physical, mental, moral, emotional and social development. The Committee notes from the Special Report on child labour, prepared by the Public Defender's Office of Georgia with the support of UNICEF (2021), that children are still involved in various forms of work due to poverty, poor living standards and other factors, which seriously impede their enjoyment of their human rights, including their rights to education, health, development, leisure and rest. State and municipal services in the field of child labour are scarce and insufficient. Moreover, due to the ineffective response system, children are unable to access the services they need.

The Committee also notes from the Public Defender's Office report that involvement of children in informal work, as well as in agricultural work, remains widespread and no effective monitoring is carried out. The Committee recalls in this respect that, under Article 7§1 of the Charter, the prohibition of the employment of children under the age of 15 applies to all economic sectors, including agriculture, and all places of work, including work within family enterprises and in private households. It also extends to all forms of economic activity, irrespective of the status of the worker (worker, self-employed, unpaid family helper or other).

The Committee further notes from the comments from the Public Defender's Office of Georgia on the national report that 18 complaints on alleged child labour/labour exploitation were filed to the Agency for State Care between January and December 2021.

In the absence of any information in the report about the implementation of the Code of the Rights of the Child in practice and taking into account the comments from the Public Defender's Office, the Committee reiterates its previous finding on the ground that the prohibition of employment of children under the age of 15 is not guaranteed in practice in all forms of economic activity.

As regards the second ground of non-conformity, the Committee notes that according to amendments made to the Labour Code in 2020, Article 24, paragraph 9 now provides that the maximum permissible working time of a minor aged between 14 and 16 years cannot exceed four hours per day and 24 hours per week. The Committee also notes from the comments from the Public Defender's Office of Georgia that there has been no change in the situation in which 14-year-old children are still allowed to work up to 24 hours per week. According to paragraphs 8 and 9 of Article 24 of the Labour Code, no distinction is made between school terms and school holidays when regulating the permitted hours of light work. In the absence of any provision in the legislation that children under the age of 15 can only perform light work for 24 hours per week and only during school holidays, the Committee reiterates its previous finding of non-conformity.

As regards the third ground of non-conformity, the Committee notes that, in 2020, as part of the amendments to the Labour Code, the Law on Labour Inspection was adopted, which determines the rules and grounds for carrying out inspections and specifies that the decision on carrying out inspections is made by the Child Labour Inspector. The labour inspectors are authorised to enter any workplace or work area subject to inspection, freely and without prior notice, at any time of the day or night.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 7§1 of the Charter on the grounds that:

- the prohibition of employment of children under the age of 15 is not guaranteed in practice in all forms of economic activity.
- children under the age of 15 can work for 24 hours per week, during the school term, which is excessive and therefore, cannot be considered as light.

Article 7 - Right of children and young persons to protection

Paragraph 2 - Prohibition of employment under the age of 18 for dangerous or unhealthy activities

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee recalls that no targeted questions were asked for Article 7§2 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In its previous conclusion (Conclusions 2019) the Committee found that the situation was not in conformity with the Charter on the ground that labour inspections supervising that the regulations on the prohibition of employment of young persons under 18 for dangerous or unhealthy activities were respected in practice were very limited and, during the reference period, were carried out only with the consent of the employer.

As regards the activities of the Labour Inspection, the Committee refers to its conclusion under Article 7§1. It further notes from the report that during the reporting period of 2018-2021, the Labour Inspection Service detected 2 cases of engaging minors in hard, harmful and hazardous work in the construction sector. The labour inspectors informed company representatives on the spot about the regulations that were violated and the minors were taken out of the construction site, since the construction activity represents a heavy, harmful and hazardous activity involving a particularly high risk. The company was subjected to legal measures and a decision was made to suspend the work process.

Conclusion

The Committee concludes that the situation in Georgia is in conformity with Article 7§2 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 3 - Prohibition of employment of children subject to compulsory education

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee recalls that no targeted questions were asked for Article 7§3 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In its previous conclusion (Conclusion 2019), the Committee found that the situation was not in conformity with Article 7§3 of the Charter on the following grounds:

- the daily and weekly working time allowed for children subject to compulsory education is excessive and therefore this work cannot be described as light;
- labour inspections verifying that the regulations on work by children who are still subject to compulsory education were respected in practice were very limited and, during the reference period, were only carried out only the consent of the employer.

As regards these grounds of non-conformity, the Committee refers to its conclusion under Article 7§1.

The Committee recalls that Article 7§3 is concerned with the effective exercise of the right to compulsory education. Under this provision, adequate safeguards must be in place to allow the authorities (labour inspectorate, social and education services) to protect children from work which could deprive them of the full benefit of their education. During school term, the time during which children may work must be limited so as not to interfere with their attendance, receptiveness and homework.

The Committee notes from the Special Report on child labour prepared by the Public Defender of Georgia, with the support of UNICEF, that there are many cases where children systematically miss school or drop out of their studies because they are working as well as of children who miss out on education during seasonal work, household chores, and temporary labour migration. In addition, absenteeism is not always monitored and, as a result, not all cases of child labour are recorded and, for this reason, no action is taken in their regard.

The Public Defender also indicates that the low level of parental awareness of children's needs is among the factors explaining child labour. Often, parents do not have a proper understanding of what harm can be suffered by a child in performing various heavy forms of work, or by imposing household chores on them during the time that should be spent on their education.

According to the National Study on Child Labour, the employment of children aged 5-13 does not have a significant impact on their involvement in the learning process. However, with age, the level of employment increases, while involvement in the education process decreases. In particular, the dropout rate among working children is 10.1%, while for children involved in dangerous work it is 16.1%. For comparison, the dropout rate among non-working children is 1.4%. According to the Public Defender of Georgia's survey, cases of missing or dropping out of school due to child labour are frequent, while the prevention mechanisms put in place in schools are relatively few.

According to the Public Defender's report, children are forced to miss school due to their involvement in seasonal agricultural activities. This period can last for several weeks or even longer. The problem of school dropouts is also raised in the Public Defender's annual reports to parliament. According to these reports, the school dropout rate is not fully taken into account, which explains why official statistics do not reflect the scale of the situation in the

country. According to the Ministry of Education, Science, Culture and Sports, 293 children dropped out of school in 2020 due to their work.

The Committee recalls that, under Article 7§3, adequate safeguards must be in place to allow the authorities (labour inspectorate, social and education services) to protect children from work which could deprive them of the full benefit of their education. The Committee considers that, during the reference period, although the Labour Inspectorate was authorised to monitor child labour, the situation in practice has shown that there are still many cases in which children are deprived of the full benefit of education because they work. The Committee considers, therefore, that the situation is not in conformity with Article 7§3 of the Charter on the ground that the prohibition of employment for children subject to compulsory education is not guaranteed in practice.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 7§3 of the Charter on the ground that the prohibition of employment for children subject to compulsory education is not guaranteed in practice.

Article 7 - Right of children and young persons to protection

Paragraph 4 - Working time

The Committee takes note of the information contained in the report submitted by Georgia. It also notes comments submitted by the Public Defender's Office of Georgia.

The Committee recalls that no questions were asked for Article 7§4 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the "Children, families and migrants" thematic group).

The Committee recalls that Article 7§4 requires that the working hours of persons under 18 years of age are limited in accordance with the needs of their development, and particularly with their need for vocational training.

In its previous conclusion, the Committee found that the situation in Georgia was not in conformity with Article 7§4 of the Charter on the ground that the labour inspections, supervising the respect of the regulations on work performed by young persons under 18 years of age who are no longer subject to compulsory education, were very limited and carried out only with the consent of the employer. (Conclusions 2019).

The Committee recalls that the effective protection of the rights guaranteed by the Charter cannot be ensured solely by legislation; the legislation must be effectively applied in practice and rigorously supervised. The Labour Inspection has a decisive role to play in effectively implementing Article 7 of the Charter (International Commission of Jurists (CIJ) v. Portugal, Complaint No. 1/1998, Decision on the merits of 9 September 1999, §§32). In its previous conclusion (Conclusions 2019), the Committee pointed, in particular, to the fact that during the reference period unannounced inspections were not carried out.

In reply to this finding of non-conformity, the report provides that in 2020 as part of the amendments to the Labour Code, the Law on Labour Inspection was adopted, which determines the rules and ground for carrying out inspection and specifies that the decision on carrying out inspection is made by the Child Labour Inspector. The labour inspectors are authorised to enter any workplace or work area subject to inspection, freely and without prior notice, at any time of the day or night. During the reporting period 2018-2021, the Labor Inspection Service carried out about 4050 inspections at about 2,500 facilities comprising 512,000 employees.

Furthermore, the report indicates that in 2020, a body was designated for supervising the execution of the labour laws - Labor Inspection Agency, which became operational from 2021 and which is authorized to carry out inspections at any time and may impose sanctions.

The Committee notes from the comments made by the Public Defender's Office of Georgia that in 2021 the Labour Inspection Service detected a case of child labour, demanded to remove the juvenile from the company in question and suspended its operation. The Committee acknowledges that during the reference period there was a labour inspection to monitor how the regulations regarding the working time of young persons under 18 years of age who were no longer subject to compulsory schooling were implemented in practice. It thus considers that the situation has been brought into conformity with Article 7§4 of the Charter.

Conclusion

The Committee concludes that the situation in Georgia is in conformity with Article 7§4 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 5 - Fair pay

The Committee takes note of the information contained in the report submitted by Georgia. It also notes comments submitted by the Public Defender's Office of Georgia.

The Committee recalls that in the context of the present monitoring cycle, States were asked to reply to targeted questions for Article 7§5 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals, or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Children, families and migrants").

In its previous conclusion, the Committee found that the situation in Georgia was not in conformity with Article 7§5 of the Charter (Conclusions 2019). The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of non-conformity, and to the targeted questions.

Fair remuneration for young workers and apprentices

The Committee concluded previously that the situation not in conformity with Article 7§5 of the Charter on the grounds that it had not been established that the minimum wage paid to young workers and the wages paid to apprentices were fair. The non-conformity on this ground persists since 2015 (Conclusions 2015, 2017 and 2019). The Committee noted, repeatedly, that respective reports failed to provide information on minimum wages paid to young workers in practice in different economic activities, for the Committee to compare it with the reference wage (average wage).

The report states in reply that in the reference period there was no legislative change as regards the concept of the minimum wage. It further specifies that the state strategy for the formation of the labor market and action plan 2015-2018 to implement this strategy did not envisage measures or activities related to the minimum wage. There are, however, provided for the 2022-2023 action plan and involve discussing the economic feasibility within the framework of social dialogue and, if necessary, planning relevant activities.

The Committee notes that this information still does not allow for the assessment whether the remuneration of young workers in Georgia is fair. It also a comment provided by the Public Offender's Office of Georgia that although the decree contains a norm that serves to revise the minimum wage according to the country's socio-economic situation, the amount of minimum wage has not undergone actual changes from 1999 to date. In the light of the lack of the change to the situation, the Committee thus reiterates its conclusions of non-conformity.

As regards remuneration of apprentices, the report states that the Government approved in 2022, outside the reference period, Resolution on Rules and conditions for the implementation, in the form of work-based learning, of a vocational education program. Pursuant to the Resolution, in a dual employment contract may be signed between a student and an education enterprise, providing for the performance of work related to the achievement of learning results by the student in the same enterprise and paying the student a respective remuneration. The report specifies that 700 students are enrolled in such programs and that the remuneration paid to apprentices varies widely and is determined by the employer.

The Committee reiterates that in order to assess the conformity of the situation with Article 7§5 of the Charter, it requested to be provided with the net values of the allowances paid to apprentices (after deduction of social security contributions) in practice at the beginning and at the end of the apprenticeship. In the absence of a reply to its question on this issue, the Committee reiterates its previous conclusion.

Fair remuneration in atypical jobs

For the present monitoring cycle, the Committee requested updated information on net minimum wages and allowances payable to persons under 18 years of age. In particular, it asked for information on measures taken to ensure that fair remuneration is guaranteed to young workers:

- i) in atypical jobs (part-time work, temporary work, fixed-term work, casual and seasonal work, self-employed people, independent workers and homeworkers.)
- ii) in the gig or platform economy and
- iii) having zero hours contracts.

The report does not provide the requested information.

Enforcement

In the context of the present monitoring cycle the Committee also requested information on measures taken to ensure that this right of young persons to fair pay is effectively enforced (e.g., through Labour Inspectorates and similar enforcement authorities, trade unions).

The report states that inspections carried out by the Labour Inspection Service in 2021 revealed no violation regarding the minors' right to remuneration.

The Committee recalls that the effective protection of the rights guaranteed by the Charter cannot be ensured solely by legislation; the legislation must be effectively applied in practice and rigorously supervised. The Labour Inspection has a decisive role to play in effectively implementing Article 7 of the Charter (International Commission of Jurists (CIJ) v. Portugal, Complaint No. 1/1998, Decision on the merits of 9 September 1999, §§32). The Committee further notes that in order to assess the conformity with the Charter on this point, it requires information on the competences and activities of the relevant enforcement bodies, number of inspections and whether they were carried out unannounced, as well as on type of sanctions which could be imposed.

Due to the failure to provide the information, the Committee concludes that the situation in Georgia is not in conformity with Article 7§5 of the Charter.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 7§5 of the Charter on the grounds that:

- the minimum wage paid to young workers is not fair;
- the allowances paid to apprentices are not adequate.

Due to the failure to provide the information listed below the Committee concludes that the situation in Georgia is not in conformity with Article 7§5 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Georgia of their reporting obligations under Article C of the Charter.

List of questions:

- on measures taken to ensure that fair remuneration is guaranteed to young workers;
- on competences and activities of the relevant enforcement bodies, number of inspections and whether they were carried out unannounced, as well as on type of sanctions which could be imposed.

Article 7 - Right of children and young persons to protection

Paragraph 6 - Inclusion of time spent on vocational training in the normal working time

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee recalls that no questions were asked for Article 7§6 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

The Committee recalls that Article 7§6 requires that time spent on vocational training by young people during normal working hours must be treated as part of the working day (Conclusions XV-2 (2001), Netherlands). Such training must, in principle, be done with the employer's consent and be related to the young person's work. Training time must thus be remunerated as normal working time, and there must be no obligation to make up for the time spent in training, which would effectively increase the total number of hours worked (Conclusions V (1977), Statement of Interpretation on Article 7§6). This right also applies to training followed by young people with the consent of the employer and which is related to the work carried out, but which is not necessarily financed by the latter.

In its previous conclusion, the Committee found that the situation in Georgia was not in conformity with Article 7§6 of the Charter on the ground that that the time spent in vocational training was not included in the normal working time (Conclusions 2019).

The report indicates that, as a result of the amendments made to the Labour Code in 2020, a new article was included - facilitating professional development, which applies equally to minors under 18 and to employees under any age category. According to article 22, Employers shall facilitate the upgrading of the qualifications of employees. According to the Labour Code, if a decision on an employee's participation in a vocational retraining, an advanced training, or other training course, is made by an employer, the employee's participation in such a course shall be included in working time and shall be paid. According to the report, inspections conducted by the Labour Inspection Service in 2021 revealed no violation regarding the right of minors under 18 to professional development.

Conclusion

The Committee concludes that the situation in Georgia is in conformity with Article 7§6 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 7 - Paid annual holidays

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee recalls that no targeted questions were asked for Article 7§7 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

The Committee deferred its previous conclusion, pending receipt of the information requested (Conclusions 2019).

The Committee asked for clarifications regarding the legal provisions enabling young workers to take at some other time the leave lost in the event of illness or accident during the holidays. The report refers to Article 32 of the Labour Code, which provides that annual leave shall not include a period of temporary incapacity for work. Furthermore, pursuant to Article 4§6 of Order N87/N of the Minister of Labour, Health and Social Protection dated 20 February 2009 ("on approval of the procedure for paying allowances during the period of temporary incapacity"), all employees, including young workers under 18 years of age, have the right to carry over sick days accrued during the period of paid leave at any later time, after the end of the period of temporary incapacity for work.

The Committee also asked for information on the monitoring activity of the authorities, on the number and nature of violations detected as well as on sanctions imposed for breach of the regulations regarding paid annual holidays. The report notes that the monitoring activities conducted by the Labour Inspection Service in 2021 did not reveal any violations of the right of young workers under 18 years of age to paid annual holidays.

Conclusion

The Committee concludes that the situation in Georgia is in conformity with Article 7§7 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 8 - Prohibition of night work

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee recalls that no targeted questions were asked for Article 7§8 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion, the Committee concluded that the situation in Georgia was not in conformity with Article 7§8 of the Charter on the ground that it had not been established that there was an efficient and effective system of Labour Inspection monitoring how the regulations regarding prohibition of night work of young workers under 18 years of age were implemented in practice (Conclusions 2019).

The Committee asked about the scope of the exception to the prohibition of night work laid down in Article 28 of the Labour Code. The report clarifies that the exception in question does not concern young workers and that it only applies to persons with disabilities or parents of children under the age of three having consented to be employed in night work.

The Committee asked whether any exceptions to the prohibition of night work for young workers were instituted with regard to certain occupations and what the number of young workers affected by those exceptions was. In doing so, the Committee recalled that exceptions could be made as regards certain occupations, if they were explicitly provided in national law, necessary for the proper functioning of the economic sector and if the number of young workers concerned was low (Conclusions XVII-2 (2005) Malta). The report notes that the prohibition of night work for young workers laid down in Article 28 of the Labour Code applies to all sectors without exception.

However, the report also provides information about an amendment to the Labour Code adopted in 2020, which defines "night workers" as being "any worker who during night-time works at least three hours of his/her standard working time as a normal course, or any worker who works during night-time for a certain proportion of his/her annual working time". An order issued by the Minister of Internally Displaced Persons, Labour, Health, and Social Protection defines the latter notion as constituting at least one-fourth of the annual working time. The Committee considers that these provisions may be interpreted as exceptions to the prohibition of night work for young workers, and that, therefore, the previous question regarding the number/proportion of young workers concerned by such derogations still applies.

Due to the failure to provide requested information on the number/proportion of young workers under 18 years of age concerned by any derogations to the prohibition of night work; showing that these derogations are necessary for a proper functioning of the relevant economic sector, the Committee concludes that the situation in Georgia is not in conformity with Article 7§8 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Georgia of their reporting obligations under Article C of the Charter.

As regards the previous conclusion of non-conformity, the report notes that the new Labour Inspection Service, tasked with ensuring the effective implementation of standards employment, became functional as of 1 January 2021. The report further notes that the inspections conducted by the Labour Inspection Service in 2021 did not reveal any violations of the prohibition of night work for young workers.

Conclusion

Due to the failure to provide the information listed below, the Committee concludes that the situation in Georgia is not in conformity with Article 7§8 of the Charter. The Committee

considers that this failure to provide information amounts to a breach by the Georgia of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- the number/proportion of young workers under 18 years of age concerned by any derogations to the prohibition of night work;
- information showing that these derogations are necessary for a proper functioning of the relevant economic sector.

Article 7 - Right of children and young persons to protection

Paragraph 9 - Regular medical examination

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee recalls that no targeted questions were asked for Article 7§9 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion, the Committee concluded that the situation in Georgia was not in conformity with Article 7§9 of the Charter on the ground that it had not been established that there was an initial medical examination at recruitment and regular medical examinations thereafter of young workers under 18 years of age employed in occupations specified by national laws and regulations (Conclusions 2019).

The report notes that, on 30 November 2020, the Minister of Internally Displaced Persons, Labor, Health and Social Protection adopted an Order which provided for a list of heavy, harmful and dangerous work that may not be performed by persons under the age of 18, defined the employers' responsibilities towards young workers, established the procedure for conducting medical examinations, and defined the requirements as to training. Article 4 of the Order provides that, before starting work and every year thereafter until the age of 18, young workers are subject to preliminary and regular medical examinations aimed at identifying any developmental delay or health condition, whether they are able to work, and whether their functional abilities match the requirements of the job concerned. The Order states that young persons not having undergone a preliminary medical examination and who were not issued a health status report are not allowed to work.

Conclusion

The Committee concludes that the situation in Georgia is in conformity with Article 7§9 of the Charter.

Article 7 - Right of children and young persons to protection

Paragraph 10 - Special protection against physical and moral dangers

The Committee takes note of the information contained in the report submitted by Georgia and in the comments by the Public Defender's Office of Georgia.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 7§10 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Children, families and migrants").

In its previous conclusion the Committee concluded that the situation in Georgia was not in conformity with Article 7§10 of the Charter on the grounds that not all forms of sexual exploitation were criminalised and that a significant number of children were involved in child labour and hazardous work (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity and the targeted questions.

Protection against sexual exploitation

The Committee previously found the situation in Georgia not to be in conformity with Article 7§10 of the Charter on the grounds that not all forms of sexual exploitation were criminalised. It also asked that the next report provide information on the steps taken to collect comprehensive and reliable data on the scope and the different forms of sexual abuse and exploitation of children in Georgia (Conclusions 2019).

In the targeted questions, the Committee asked for updated information on measures taken to strengthen the protection of children, including migrant, refugee, and displaced children, from sexual exploitation and abuse (in particular, in response to the risks posed by the Covid-19 pandemic) during the reference period, including information on the incidence of such abuse and exploitation.

The report states that, while prostitution is still an administrative offence, pimping was criminalised in 2018. In 2020, the export and import of child pornography was added to Article 255 of the Criminal Code. Using the services of a victim of trafficking is also criminalised. The report provides statistical data on trafficking in minors. For example, in 2018, two persons were convicted, in 2019 – two and in 2020 – twenty-nine.

The Committee notes that grooming, importing and exporting child pornography, the recruitment of a person under 18 for the purposes of prostitution were criminalised.

In reply to the targeted question, the report states that a national human rights strategy and its action plan were developed. Mobile groups were formed and started operating within the country. These groups work at checking the persons who are at risk of trafficking, as well as checking the places where the cases of child trafficking and human trafficking could take place.

The Committee refers to the Special report of the Public Defender of Georgia together with UNICEF on child labour during the coronavirus pandemic and beyond 2021, where it is stated that mobile groups do not operate in big cities.

The report also states that on 17 March 2020, the Law on Combatting Crimes against Sexual Freedom and Inviolability was adopted and according to it, anyone convicted of offences of this nature may be banned from working at an early and pre-school educational institution, school, etc.

The report states that there are specialised officials at the Migration Department who work on the cases of persons with specific needs, such as minors, unaccompanied minors, victims of trafficking, sexual violence. Training on child sexual exploitation and abuse is provided to law

enforcement officers. In addition, combatting trafficking in human beings is one of the key priorities of the Georgian Government. Georgia considers public awareness-raising campaigns on trafficking as one of the essential crime-preventing measures.

The report also states that strengthening the proactive identification of victims is one of the Georgian Government's top priorities. Thus, six mobile inspection units regularly operate in high-risk areas. The Labour Inspection Office investigate forced labour cases. Memorandums of understanding are concluded with local and international NGOs regarding the provision of services for human trafficking victims. Since 2021, victim of human trafficking can get one-time compensation directly, without applying to a court. On 17 September 2020, the concept of a psychological-social service centre for abused children was approved. The State Care Agency intervenes with juvenile victims of sexual violence with the involvement of various specialists. In 2021, 1,904 appeals were made on the issue of violence against children, 618 cases were confirmed and 72 were transferred to state care.

In its comments, the Public Defender's Office of Georgia states that, while the adoption of the Law on Combatting Crimes against Sexual Freedom and Inviolability is a welcome step, there are still shortcomings in national legislation addressing sexual violence against children. Moreover, the persons using the services of a 16 or 17-year-old child engaged in prostitution are not prosecuted and administrative liability for prostitution can be imposed from the age of 16; therefore, children of that age would be considered offenders and not victims. The comments also mention that shortcomings were identified in the administration of justice in cases of sexual abuse against children during the reference period.

The Committee considers that the situation in Georgia is not in conformity with Article 7§10 of the Charter on the ground that not all forms of sexual exploitation of children are criminalised.

Protection against the misuse of information technologies

The Committee previously requested information on the functioning of the Cybercrime Unit, or any other relevant service, and the results of their action to protect children against the misuse of information technologies (Conclusions 2019).

In the targeted question, the Committee asked for information on the protection of children from all forms of violence, exploitation and abuse in the digital environment, in particular sexual exploitation and abuse and solicitation for sexual purposes (grooming).

The report states that the Cybercrime Unit actively works to identify cases of child sexual exploitation online and provide adequate measures to combat these crimes. If online trafficking and exploitation websites are identified, they are blocked. Also, a resolution concerning the approval of the provision on rules for the online publication of content harmful to children sets out the rules in this area. Administrative fines may be imposed for violation of the rules laid down therein. Furthermore, Internet services providers have to develop mechanisms allowing to block or restrict children's access to websites that are dangerous for them. Similar rules apply to the dissemination of information.

In reply to the targeted question, the report states that Article 255 of the Criminal Code defines liability for the illegal production or possession of pornographic work or other objects. Grooming minors is also made a criminal offence, as Article 255(2) of the Criminal Code criminalises the offer of a meeting knowingly made by an adult to a person under 18 years of age by using information and communication technologies for the purpose of committing the offence defined in paragraph 5 of Article 255(5) of the Criminal Code. The promotion of prostitution has also been declared a criminal offence since 2018.

Protection from other forms of exploitation

In its previous conclusion, the Committee concluded that the situation in Georgia was not in conformity with Article 7§10 of the Charter on the ground that a significant number of children were involved in child labour and hazardous work. It also asked for updated information on

the work of the Human Rights Protection Department. The Committee also asked to be informed about the number of children in street situations and considered that if this information was not provided in the next report, there would be nothing to establish that the situation was in conformity with the Charter. It also asked for information on developments in the situation demonstrating that children in street situations were protected both in law and practice (Conclusions 2019).

The report states that in 2019, the Human Rights Department was transformed into the Human Rights Protection and Investigation Quality Monitoring Department. It is in charge of ensuring the prompt response and quality of investigation into domestic violence, hate crime, violence against women, human trafficking, crimes committed by/towards minors and those based on discrimination. It develops recommendations to eliminate the shortcomings in the investigation process. The internal control mechanism involves daily monitoring of the quality of the investigation by the department's employees via an electronic investigation programme. The external control mechanism involves receiving information about specific cases from NGOs both orally and in writing. In 2019, a witness and victim coordinator service was created in order to provide adequate safeguards to victims of crimes.

The report provides some information about children in street situations. Children living and/or working on the streets are identified as one of the vulnerable groups for human trafficking. Eight mobile units work with such children. Since August 2021, mobile units have been working around the clock on the issue of homeless children, including in the field and with minors in care. Between 2018 and 2022, 1,324 street children received assistance.

The Committee refers to the Special report of the Public Defender of Georgia together with UNICEF on child labour during the coronavirus pandemic and beyond 2021, where it is stated that the registration mechanism in relation to children living and working on the streets is weak, making it impossible to establish the real scale of the problem. The report also states that hazardous labour is especially prevalent in cities and 87.8% of children involved in it work in an environment that is harmful to their health.

The Committee notes that no information is provided in relation to the previous conclusion of non-conformity, therefore, it reiterates that the situation in Georgia is not in conformity with Article 7§10 of the Charter on the ground that a significant number of children are involved in child labour and hazardous work.

Covid-19

In the context of the Covid-19 pandemic, the Committee asked for information on the impact of the pandemic on the monitoring of the exploitation and abuse of children, as well as measures taken to strengthen the monitoring mechanisms.

The Committee recalls that Article 7§10 of the Charter guarantees protection against sexual and other exploitation of children as well as protection against the misuse of information technology and social media (for the purposes of online bullying, child pornography, grooming, harassment, etc.), which is particularly pertinent in view of the acceleration of digitalisation and online activity brought about by the pandemic (Statement on Covid-19 and social rights, 24 March 2021).

The report states that during the pandemic, crimes shifted to the Internet. The Ministry of Internal Affairs started monitoring online platforms and identified a site promoting prostitution. The founder was prosecuted, and the site was blocked. The State Care Agency took the necessary measures to protect the health of the beneficiaries and prevent the spread of the virus at crisis centres and shelters.

The Committee refers to the Special report of the Public Defender of Georgia together with UNICEF on child labour during the coronavirus pandemic and beyond 2021, where it is stated that heavy forms of child labour have been identified during the pandemic.

In its comments, the Public Defender's Office of Georgia states that switching to remote learning, isolation and prohibition of economic activities of private enterprises increased the risks of violence against children. Despite these risks, there was no significant rise in reporting or referring cases of violence to the authorities.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 7§10 of the Charter on the grounds that:

- not all forms of sexual exploitation of children are criminalised;
- a significant number of children are involved in child labour and hazardous work.

Article 8 - Right of employed women to protection of maternity

Paragraph 3 - Time off for nursing mothers

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee recalls that no targeted questions were asked for Article 8§3 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the thematic group "Children migrants and families").

As the previous conclusion found the situation in Georgia to be in conformity with the Charter, there was no examination of the situation in 2023.

Therefore, the Committee reiterates its previous conclusion.

Conclusion

The Committee concludes that the situation in Georgia is in conformity with Article 8§3 of the Charter.

Article 8 - Right of employed women to protection of maternity

Paragraph 4 - Regulation of night work

The Committee takes note of the information contained in the report submitted by Georgia and in the comments of the Public Defender's Office of Georgia.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions in relation to Article 8§4 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Children, families and migrants").

In its previous conclusion, the Committee concluded that the situation in was not in conformity with Article 8§4 of the Charter on the grounds that it had not been established that the regulations on night work offer sufficient protection for pregnant women or women who have recently given birth or are nursing are sufficient, in particular as to whether such women could take leave if no appropriate alternative work was available (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the non conformity and to the targeted question.

In its targeted question the Committee asked for confirmation that no loss of pay results from the changes in the working conditions or reassignment to a different post and that in the case of exemption from work related to pregnancy and maternity, the woman concerned is entitled to paid leave.

The report states that according to the Labour Code as revised in 2020 pregnant women, women who have recently given birth or are breastfeeding may not be employed at night. The Labour Code further provides that such women have the right to request alternative employment in the same establishment.

The reports further states in the event of temporary leave from employment, the renumeration payable to the woman shall be decided by agreement of the employer and the employee. The Committee considers that this does not amount to a guarantee that women exempted from night work related to maternity are entitled to their average previous salary and therefore concludes that the situation is not in conformity with the Charter on this point.

The Committee notes that the comments of the Public Defender confirm that a woman on temporary leave has no right to receive her previous salary.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 8§4 of the Charter on the ground that pregnant women, women who have recently given birth or are nursing who cannot perform night work and cannot be offered suitable alternative employment and are obliged to take leave are not entitled to 100% of their previous salary.

Article 8 - Right of employed women to protection of maternity

Paragraph 5 - Prohibition of dangerous, unhealthy or arduous work

The Committee takes note of the information contained in the report submitted by Georgia and in the comments of the Public Defender's Office of Georgia.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions in relation to Article 8§5 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Children, families and migrants").

In its previous conclusion, the Committee concluded that the situation was not in conformity with Article 8§5 of the Charter on the ground that there are no adequate regulations on dangerous, unhealthy or arduous work in respect of pregnant women, women who have recently given birth or who are breastfeeding (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the non conformity and to the targeted question.

In its targeted question the Committee asked for confirmation that no loss of pay results from the changes in the working conditions or reassignment to a different post and that in the case of exemption from work related to pregnancy and maternity, the woman concerned is entitled to paid leave and women concerned retain the right to return to their previous employment once their condition permits.

According to the report the Labour Code prohibits the employment of pregnant women, women who have recently given birth or are breastfeeding from performing heavy harmful or hazardous work. The Organic Law on Occupational Safety contains a similar prohibition. A list of harmful work has been laid down in Order N01-20/N, based on the European Union Directive of 19 October 1992 (on the introduction of measures to promote the safety and health at work of pregnant women and women who have recently given birth or are breastfeeding).

The law defines work that is harmful and/or carries particular risk for the health of pregnant women and women who have recently given birth or are breastfeeding and, for this purpose, establishes factors, agents and identifies factors and agents and describes work processes that may have a negative impact on the health and development of a pregnant woman, a woman who has recently given birth or is breastfeeding, as well the child.

From the information provided in the report under Article 8§4, the Committee notes that the Labour Code as amended in 2020 provides that where pregnant women, women who have recently given birth or are breastfeeding cannot perform their work due to their condition such women have the right to request alternative employment in the same establishment.

According to the comments of the Public Defender as regards the temporary reassignment of women during pregnancy and maternity period to work suitable to their condition without loss of pay, the right to reassignment is granted by paragraph 6 of article 20 of the Labor Code without explicitly including a right to maintain the previous salary. It adds, however, that the renumeration previously paid may only be changed by agreement between the parties.

The report states in the event of temporary leave from employment, the renumeration payable to the woman shall be decided by agreement of the employer and the employee. The Committee considers that this does not amount to a guarantee that women exempted from dangerous, unhealthy work related to maternity are entitled to their average previous salary and therefore concludes that the situation is not in conformity with the Charter on this point.

The Committee notes that the comments of the Public Defender confirm that a woman on temporary leave has no right to receive her previous salary as such.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 8§5 of the Charter on the ground that pregnant women, women who have recently given birth or who are nursing whose ordinary employment has been deemed unsuitable due to their condition and who cannot be offered suitable alternative employment and are obliged to take leave are not entitled to 100% of their previous salary.

Article 17 - Right of children and young persons to social, legal and economic protection

Paragraph 1 - Assistance, education and training

The Committee takes note of the information contained in the report submitted by Georgia and in the comments of the Public Defender's Office of Georgia, the Georgian Young Lawyers' Association, Social Justice Centre and Partnership for Human Rights.

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 17§1 of the Charter, as well as, where applicable, previous conclusions of non-conformity, deferrals or conformity pending receipt of information (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within the thematic group "Children, families and migrants").

The Committee also recalls that in the General Introduction to Conclusions 2019, it posed general questions under Article 17§1 and asked States to provide, in the next report, information on measures taken to reduce statelessness; to facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular migration situation; to reduce child poverty; combat discrimination and promote equal opportunities for children from particularly vulnerable groups; and on the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.

In its previous conclusion, the Committee concluded that the situation in Georgia was not in conformity with Article 17§1 of the Charter on the ground that not all forms of corporal punishment were prohibited in all settings (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of non-conformity, the targeted questions and the general questions.

The legal status of the child

In the general questions, the Committee asked for information on measures taken by the State to reduce statelessness (e.g., ensuring that every stateless migrant child is identified, simplifying procedures to ensure the acquisition of nationality, and taking measures to identify those children who were not registered at birth). It also asked for information on measures taken by the State to facilitate birth registration, particularly for vulnerable groups, such as Roma, asylum seekers and children in an irregular migration situation.

The report states that the Law on Georgian Citizenship establishes mechanisms to prevent and reduce the statelessness of minors. A minor will become Georgian citizen through birth: if one of their parents is a Georgian citizen, if they are born through surrogacy under certain circumstances, if both parents are stateless but the birth takes place in Georgia, if one parent is stateless and the other is unknown and the birth takes place in Georgia, if the parents are unknown and the minor lives in Georgia, they are citizens of Georgia until it is proven otherwise. A simplified regime for obtaining Georgian citizenship has been introduced for minor refugees born in Georgia. Between 2018 and 2021, the number of stateless persons decreased from 570 to 530.

In its comments, the Public Defender's Office of Georgia states that the measures taken to reduce statelessness and facilitate birth registration are insufficient. The Government did not provide any response.

With regard to birth registration, the report states that civil registration is considered an essential public service in Georgia. Births are registered on the basis of a medical certificate of birth issued by a medical institution and/or a statement from an authorised person.

Protection from ill-treatment and abuse

The Committee previously considered that the situation in Georgia was not in conformity with Article 17§1 of the Charter on the ground that not all forms of corporal punishment were prohibited in all settings (Conclusions 2019).

In its comments, the Public Defender's Office of Georgia states that corporal punishment was commonly used in the NNLE Javakheti Ninotsminda St. Nino Boarding school.

The report provides no information regarding the previous conclusion of non-conformity, therefore, the Committee reiterates it.

Child poverty

In the general questions, the Committee asked for information on measures to reduce child poverty (including non-monetary measures such as ensuring access to quality and affordable services in the areas of health, education, housing, etc.); to combat discrimination and promote equal opportunities for children from particularly vulnerable groups, such as ethnic minorities, Roma children, children with disabilities and children in care. It also asked for information on the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.

The report states that in Georgia, there are seven day-care centres and six shelters for homeless children. Targeted social assistance programmes are an important element in terms of reduction of poverty. Since 2015, a child benefit has been introduced and keeps increasing. In 2019, 137,505 children under 16 were receiving this benefit and in 2021, this number increased to 173,326. A social package is issued for children with disabilities and dependents. Families with four and more children receive compensation for electricity. Food is provided to families in crisis situations.

The report states that every person is equal and are entitled to their rights without discrimination.

The report also states that according to national legislation, children have a right to have their opinion heard in matters related to them.

In its comments, the Public Defender's Office of Georgia states that the poverty level is increasing and central and local state support services for preventing and overcoming child poverty are not efficient enough. There is also inequality of opportunities in the field of education for children from ethnic minorities. The Government did not provide a response.

According to the report, in 2018, 25.5% of persons under 18 were below the absolute poverty line and in 2021 this percentage decreased to 22.7%.

The prevalence of child poverty in a State Party, whether defined or measured in either monetary or multidimensional terms, is an important indicator of the effectiveness of state efforts to ensure the right of children and young persons to social, legal and economic protection under Article 17 of the Charter. Consistent with its approach in relation to the conceptualisation and measurement of poverty adopted by the Committee in terms of Article 30, the Committee's consideration of child poverty for the purposes of Article 17 reflects an understanding of both income and multi-dimensional understandings of poverty (Statement of interpretation, 2013, Article 30). This understanding is reflected in the indicators and elements the Committee takes into account when assessing State Party compliance with Article 17. For the States that have not accepted Article 17, child poverty will be addressed under Article 30.

The EUROSTAT data and the EU-27 rate of children at risk of poverty or social exclusion is used as key point of reference and indicator of state compliance with Charter rights by the Committee. The Committee will also have regard to disimprovement in terms of the rate of children at risk of poverty or social exclusion in a State Party. Furthermore, the Committee also takes into account non-monetary measures adopted at reducing child poverty and social

exclusion such as ensuring access to quality and affordable services in the areas of health, education and housing. When assessing State conformity with Article 17, the Committee will also take into account the extent to which child participation is ensured in work directed towards combatting child poverty and social exclusion.

Right to assistance

The Committee previously asked what measures had been taken to ensure that children in an irregular migration situation were accommodated in appropriate settings. It also requested further information on the assistance given to unaccompanied children, in particular to protect them from exploitation and abuse. It also requested information as to whether children in an irregular migration situation, whether accompanied by their parents or not, could be detained and if so, under what circumstances. Finally, it also asked whether Georgia used bone testing to assess age and, if so, what potential consequences such testing could have (Conclusions 2019).

In the targeted question, the Committee asked for information on any measures adopted to protect and assist children in crisis situations and emergencies.

In reply to the questions asked in the previous conclusion, the report states that placement at the Temporary Accommodation Centre is a measure of last resort and should last for a very short period of time. In such cases, the presence of a legal representative/social worker is guaranteed. Family separation is to be avoided. The report also states that the care agency intervenes in cases of abuse and helps children who have been abused during the rehabilitation process.

Due to the failure to provide requested information on whether Georgia uses bone testing to assess age and, if so, in what situations and what potential consequences such testing could have, the Committee concludes that the situation in Georgia is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Georgia of their reporting obligations under Article C of the Charter.

In reply to the targeted question, the report states that, in case of an unfavourable environment, the State has an obligation to create a safe environment to a child and places them in State care. Placement in foster care is a priority because children can then grow up in a family-like environment. The sub-programme of assistance to families in crisis situations aims to prevent the abandonment and separation of children from their families and to promote the child's upbringing in a family environment.

Rights of children in public care

In its previous conclusion, the Committee requested that the next report provide more information on the new legislation and on the number of children in public care, along with data on the number cared for in institutions and foster families. It also asked for information on the monitoring of foster families and residential institutions. It also called on the Government to comment the information that access to childcare institutions run by religious bodies was limited and that there was no mandatory registration requirement for such institutions. In addition, it asked whether the precarious financial situation of a family could be the sole ground for suspension or deprivation of parental rights and considered that if this information was not provided in the next report, there would be nothing to establish that the situation in Georgia is in conformity with Article 17§1 of the Charter (Conclusions 2019).

The report states that in 2021, one large children's institution, "Kojori Boarding Home for Children with Disabilities", was closed, and children were placed in small family group homes. The Care Agency plans to replace the large-scale children's institutions with alternative care services. Between 2018 and 2021, 1,449 minors were placed in foster care, 445 of whom were returned to their biological families.

In its comments, the Public Defender's Office of Georgia states that the implementation of State care in large residential institutions hinders the socialisation of children and their readiness to leave State care due to the closed and isolated environment in which they find themselves. Moreover, monitoring conducted in the Ninotsminda Boarding School in 2021 revealed systemic violations of the rights of children. The Government did not provide a response.

In their comments, the Georgian Young Lawyers' Association, the Social Justice Centre and Partnership for Human Rights state that children without parental care and under State protection experience severe discrimination, violence and negligence. For example, in Autumn 2019, the Georgian Public Defender was denied access to one of the religious boarding schools (Ninotsminda Boarding School) that was operating in violation of the domestic licencing procedure for childcare services. Since 2013, around 1,000 children have been placed in religious institutions, some of which were not regulated, operated beyond the Government's control, and others, while licenced, were violating the laws. In 2021, the UN Child Rights Committee issued a temporary measure and forced the Government to let the Public Defender enter Ninotsminda Boarding School. A criminal investigation was opened on suspicion of torture, rape and violent crimes against children residing there. The State does not provide any official statistics on the number of children in religious childcare institutions or monitoring reports on the matter. The Government did not provide a response.

The Committee considers that the situation in Georgia is not in conformity with Article 17§1 of the Charter on the ground that inspections in childcare institutions run by religious bodies are limited, and children there are not sufficiently protected from violence and abuse.

Due to the failure to provide requested information on whether the precarious financial situation of a family can be the sole ground for suspension or deprivation of parental rights, on the number of children placed in institutions, the Committee concludes that the situation in Georgia is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach of their reporting obligations under Article C of the Charter.

Right to education

As Georgia has not accepted Article 17§2 of the Charter, issues related to education are examined under this provision.

The Committee previously asked for information on measures taken to facilitate access to education for Roma children and access to mainstream education for children with disabilities and considered that if this information was not provided in the next report, there would be nothing to establish that the situation in Georgia is in conformity with Article 17§1 of the Charter. It also sought information on whether all children, irrespective of their residency status, including those in an irregular migration situation, had the right to access compulsory education. Finally, it wished to receive information on the measures taken to encourage school attendance (Conclusions 2019).

In reply, the report states that in 2020 and 2021, training in inclusive education was held in 10 municipalities of Georgia and focused on stages in a child's development, developmental delay, inclusive education principles, play, strategies for working with children.

In its comments, the Public Defender's Office of Georgia states that the interviews conducted with school teachers and persons with international protection status and asylum seekers revealed that the language barrier made it especially difficult for children to actively participate in the learning process and prevented them from fully mastering the educational process. Moreover, ensuring adequate quality and continuity of inclusive education is still a problem. Suspension and termination of student status remain an issue. In other respects, during the Covid-19 pandemic, certain platforms were not accessible to blind children, and the switch to

e-learning has led to technical problems for all children. The Government did not provide a response.

The report states that full general education is available free of charge to all children regardless of citizenship or residence permit. Elementary and primary education is mandatory. Each school has to exercise a strict control over systematic school absenteeism. Since 2020, out-of-school children can be identified through the exchange of information between the agencies concerned. For example, 611 are not participating in compulsory education because they are in palliative care or have severe disorders, 70 children are kept out of formal education due to the ethnic-cultural characteristics of the communities they live in: 25 live in Roma communities and 45 in nomadic Azerbaijani families. However, up to 400 Roma children participate in general education. During the 2020/2021 academic year, a risk assessment was carried out, involving 60 minors from Roma ethnic group. The assessment revealed that the low involvement in the education system and the risk of dropping out was related to a lack of motivation and the language barrier. Therefore, a social project was developed, and 10 students benefited from the services of a specialist teacher.

The report also states that there are seven specialised schools in Georgia for children with specific disabilities. Various measures have been taken to facilitate the learning process of children with disabilities.

Children in conflict with the law

The Committee previously requested information on the number of children sentenced to detention for periods longer than six months and on the length of such sentences. It also wished to know whether the entry into force of the new Juvenile Justice Code had reduced the number of children in detention and whether minors in detention could be held in solitary confinement; if so, for how long and under what circumstances (Conclusions 2019).

The Committee notes that under Juvenile Justice Code, for children between 14 and 16, the sentence shall not exceed 10 years and for children between 16 and 18, the sentence shall not exceed 12 years. Children are not placed in solitary confinement.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 17§1 of the Charter on the grounds that:

- not all forms of corporal punishment are prohibited in all settings;
- inspections in childcare institutions run by religious bodies are limited and children there are not sufficiently protected from violence and abuse.

Due to the failure to provide the information listed below, the Committee concludes that the situation in Georgia is not in conformity with Article 17§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Georgia of their reporting obligations under Article C of the Charter.

List of questions/Information missing:

- whether Georgia uses bone testing to assess age and, if so, in what situations and what potential consequences such testing could have;
- whether the precarious financial situation of a family can be the sole ground for suspension or deprivation of parental rights;
- on the number of children placed in institutions.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 1 - Assistance and information on migration

The Committee takes note of the information contained in the report submitted by Georgia and in the comments of the Public Defender's Office of Georgia.

The Committee recalls that no targeted questions were asked for Article 19§1 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the "Children, families and migrants" thematic group).

In its previous conclusion (Conclusions 2019), the Committee considered that the situation in Georgia was not in conformity with Article 19§1 of the Charter on the ground that it had not been established that adequate measures have been taken against misleading propaganda in relation to emigration and immigration.

The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of non-conformity and to the questions raised in its previous conclusion.

Change in policy and the legal framework

In its previous conclusion, the Committee took note of the relevant legislation and of the 2016-2020 Migration Strategy (Conclusions 2019). It asked for information on the implementation of strategy and impact (Conclusions 2019).

The report provides information on the new Migration Strategy 2021-2030 which was elaborated to adjust to the new realities and to address modern challenges. The Strategy defines key sectoral priorities in the field of migration such as: enhancement of migration management system as well as facilitation of legal migration, fight against illegal migration, reintegration of returned migrants, engagement of diaspora in country's development, development of asylum system and integration of foreigners.

Free services and information for migrant workers

In its previous conclusion, the Committee considered that the assistance to emigrants provided by the Government, along with the network of independent assistance, constituted sufficient measures concerning the provision of adequate and free services for migrants, and in this regard the situation in Georgia was in conformity with Article 19§1 of the Charter (Conclusions 2019).

The Committee requested information on the existing guidelines for officials on application of criteria when considering visa and residence permit applications (Conclusions 2015, Conclusions 2019). The report indicates that such guidelines are set out in the Law on the Legal Status of Aliens and Stateless Persons, the Ordinance of 1 September 2014 on "approval of the procedures for reviewing and deciding the granting of Georgian residence permits" and in the Resolution No. 280 of 23 June 2015 on "the approval of the procedure for issuing a Georgian visa, extending and terminating its validity".

Measures against misleading propaganda relating to emigration and immigration

The Committee recalls that under Article 19§1 of the Charter, States Parties must take measures to prevent misleading propaganda relating to immigration and emigration (Conclusions XIV-1 (1998), Greece). Such measures should prevent the communication of misleading information to nationals leaving the country and act against false information targeted at migrants seeking to enter (Conclusions 2019, Estonia). The Committee stresses the importance of promoting responsible dissemination of information, and of deterring the

promulgation of discriminatory views. It considers that in order to combat misleading propaganda, there must be an effective system to monitor discriminatory, racist or hate-inciting speech, particularly in the public sphere (Conclusions 2019, Albania).

In the previous conclusions (Conclusions 2019), the Committee considered that the situation in Georgia was not in conformity with Article 19§1 of the Charter on the ground that it had not been established that adequate measures have been taken against misleading propaganda in relation to emigration and immigration. The situation had previously been in non-conformity on this point (see Conclusions 2015 and 2017).

The Committee notes that the report provides no information on measures undertaken by Georgia on combating misleading propaganda stereotypes, prejudice and misconceptions towards migrants. The Committees had repeatedly requested information on this point in its previous conclusions (see Conclusions 2011, 2015, 2017 and 2019).

In the absence of any response in the report concerning the previous conclusion of non-conformity in this respect, the Committee considers that that the situation in Georgia is not in conformity with Article 19§1 of the Charter on the ground that appropriate measures have not been taken against misleading propaganda in relation to emigration and immigration.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 19§1 of the Charter on the ground that appropriate measures have not been taken against misleading propaganda in relation to emigration and immigration.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 2 - Departure, journey and reception

The Committee takes note of the information contained in the report submitted by Georgia and in the comments of the Public Defender's Office of Georgia.

The Committee recalls that no targeted questions were asked for Article 19§2 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the "Children, families and migrants" thematic group).

In its previous conclusion (Conclusions 2019), the Committee deferred its conclusion pending receipt of the information requested.

The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of deferral.

Immediate assistance offered to migrant workers

Under this provision, States are obliged to adopt special measures for the benefit of migrant workers, beyond those which are provided for nationals to facilitate their departure, journey and reception (Conclusions III (1973), Cyprus). Reception means the period of weeks which follows immediately from the migrant workers' arrival, during which migrant workers and their families most often find themselves in situations of particular difficulty (Conclusions IV, (1975) Statement of Interpretation on Article 19§2). Special measures 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 (Conclusions IV (1975), Germany).

The Committee assessed the legal framework related to assistance offered to migrant workers in its previous conclusions (see Conclusions 2015 and Conclusions 2019). It noted that foreigners residing permanently in Georgia shall have the same right to assistance, pension and other forms of social security as nationals of Georgia (Conclusions 2015). It also noted that beneficiaries of international protection are provided with social-economic assistance, have right to free accommodation, education and healthcare (Conclusions 2019). The Committee asked whether appropriate assistance is also offered in practice to all migrant workers who are faced with an emergency or particular difficulty, not only to those under international protection or residing permanently (Conclusions 2019).

The report does not provide the requested information. It only indicates that nationals of foreign countries living in Georgia on a lawful basis receive a state pension, targeted social assistance, a social package, benefit from the state program of social rehabilitation and child care, similar to Georgian nationals.

Due to the failure to provide information on assistance available to migrant workers in emergency situations, in particular in response to their needs of food, clothing and shelter, upon reception, the Committee concludes that the situation in Georgia is not in conformity with Article 19§2 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Georgia of their reporting obligations under Article C of the Charter.

Conclusion

Due to the failure to provide the information listed below, the Committee concludes that the situation in Georgia is not in conformity with Article 19§2 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Georgia of their reporting obligations under Article C of the Charter.

List of questions:

- information on assistance, financial or otherwise, available to migrant workers in emergency situations, in particular in response to their needs of food, clothing and shelter, upon reception.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 3 - Co-operation between social services of emigration and immigration states

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee recalls that no targeted questions were asked for Article 19§3 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

In its previous conclusion (Conclusions 2019), the Committee considered that the situation was in conformity with Article 19§3 of the Charter, pending receipt of the information requested.

The assessment of the Committee will therefore concern the information provided in the report in response to the questions raised in its previous conclusion.

The Committee recalls that the scope of this provision extends to migrant workers immigrating as well as migrant workers emigrating to the territory of any other State. Contacts and information exchanges should be established between public and/or private social services in emigration and immigration countries, with a view to facilitating the life of emigrants and their families, their adjustment to the new environment and their relations with members of their families who remain in their country of origin (Conclusions XIV-1 (1998), Belgium).

It also recalls that formal arrangements are not necessary, especially if there is little migratory movement in a given country. In such cases, the provision of practical co-operation on a need basis may be sufficient (Conclusions 2019, Albania).

The Committee had previously assessed the strategic vision for migration management in Georgia and found the situation to be in conformity with the Charter (Conclusions 2017). In its previous conclusion, the Committee took note that a migration management structure with a coordinating agency had been established (Conclusions 2019). It asked that the next report provide more detailed information on what contacts and information exchanges are established by migration services in emigration and migration countries (Conclusions 2019).

The report provides detailed information on inter-state cooperation in the field of labour migration: an agreement on seasonal employment in the agricultural sector concluded with Germany and a pilot project of circular migration implemented in cooperation with the German Agency for International Cooperation (GIZ); an agreement signed with France with the aim to facilitate temporary labour migration and the return of specialists to Georgia; a pilot project on circular migration with Poland was implemented in cooperation with the International Organisation for Migration (IOM); and an agreement signed with Bulgaria on the regulation of labour migration. Furthermore, the report indicates that a dialogue is underway with other EU states to identify opportunities for temporary legal employment (circular labour migration). Moreover, a Division for labour migration issues was established at the Ministry of IDPs, Labour, Health and Social Affairs in order to manage labour migration related issues and lead the negotiation process with foreign partners and internal coordination.

Conclusion

The Committee concludes that the situation in Georgia is in conformity with Article 19§3 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 4 - Equality regarding employment, right to organise and accommodation

The Committee takes note of the information contained in the report submitted by Georgia and in the comments of the Public Defender's Office of Georgia.

The Committee recalls that no targeted questions were asked for Article 19§4 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the "Children, families and migrants" thematic group).

In its previous conclusion (Conclusions 2019), the Committee considered that the situation in Georgia was not in conformity with Article 19§4 of the Charter on the grounds that it had not been established that:

- migrant workers lawfully resident in the country are treated no less favourably than nationals with regard to accommodation;
- the right to equality regarding employment, right to organise and accommodation is subject to an effective mechanism of monitoring or judicial review.

The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of non-conformity and the questions raised in its previous conclusion.

Remuneration and other employment and working conditions

The Committee recalls that States are obliged to eliminate all legal and de facto discrimination concerning remuneration and other employment and working conditions, including in-service training, promotion, as well as vocational training (Conclusions VII (1981), United-Kingdom).

The Committee notes that the Labour Code was amended in 2020. Under Article 2(3) of the Labour Code, in labour and pre-contractual relations shall be prohibited any type of discrimination due to race, skin colour, language, ethnicity or social status, nationality, origin, material status or position, place of residence, age, sex, sexual orientation, marital status, handicap, religious, public, political or other affiliation, including affiliation to trade unions, political or other opinions. The prohibition of discrimination shall apply, *inter alia*, to: (i) selection criteria and employment conditions in pre-contractual relations, as well as access to career advancement, at all levels of the professional hierarchy and whatever the sector or branch of activity; (ii) access to all types of vocational guidance, advanced training, vocational training and retraining (including practical work experience) at all levels of the professional hierarchy; (iii) labour conditions, remuneration conditions, and conditions for the termination of labour relations; (iv) conditions of occupational social protection, including social security and health care conditions. (Article 5 of the Labour Code). The report states that the violation by employers of the provisions regarding discrimination provided by law shall result in a warning or a fine.

The Committee considers that the situation is in conformity with Article 19§4 of the Charter on this point.

Membership of trade unions and enjoyment of the benefits of collective bargaining

The Committee recalls that this sub-heading requires States to eliminate all legal and de facto discrimination concerning trade union membership and as regards the enjoyment of the benefits of collective bargaining (Conclusions XIII-3 (1995), Turkey). This includes the right to be founding member and to have access to administrative and managerial posts in trade unions (Conclusions 2011, Statement of interpretation on Article 19§4(b)).

The Committee noted previously that migrant workers have the right to assembly and manifestation, as well as the right to participate in collective bargaining and receive benefits of these processes equal to citizens (see Conclusions 2015). The Committee had asked for information on the monitoring and practical implementation (Conclusions 2015 and 2019).

The report indicates that the scope of the prohibition of discrimination in labour relations also applies to the membership and activity of an employees' association or of such an organisation whose members belong to a defined professional group, including to the benefits received from such organization. The above-mentioned provision and the scope of supervision provided for by the law apply to all employees, including migrant workers. The supervision is ensured by the Labour Inspection Service.

The Committee considers that the situation is in conformity with Article 19§4 of the Charter on this point.

Accommodation

The undertaking of States Parties under this sub-heading is to eliminate all legal and de facto discrimination concerning access to public and private housing (European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, §§111-113). Irregularly present immigrants, however, do not fall within the scope of Article 19§4(c) (European Roma Rights Centre (ERRC) v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, §§ 111-113; Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§ 145-147). It also recalls that there must be no legal or de facto restrictions on home-buying (Conclusions IV (1975), Norway), access to subsidised housing or housing aids, such as loans or other allowances (Conclusions III (1973), Italy).

The Committee had previously asked for information proving the absence of discrimination in practice of migrant workers with regard to accommodation or on any possible measure taken to remedy cases of discrimination (Conclusions 2017). In its previous conclusion, the Committee noted that the report provided no such information, despite the Committee's repeated request (Conclusions 2019). The Committee therefore concluded that the situation was not in conformity with the Charter on the ground that it had not been established that migrant workers lawfully resident in the country were treated no less favourably than nationals with regard to accommodation (Conclusions 2019).

The current report provides no information on this aspect. Given the repeated lack of information proving the absence of discrimination in practice of migrant workers lawfully resident in the country with regard to accommodation or on any measures taken to remedy cases of discrimination in this field, the Committee considers that that the situation in Georgia is not in conformity with Article 19§4 of the Charter on the ground that migrant workers lawfully resident in the country are not treated equally with nationals with regard to accommodation.

Monitoring and judicial review

The Committee recalls that it is not enough for a government to demonstrate that no discrimination exists in law alone but also that it is obliged to demonstrate that it has taken adequate practical steps to eliminate all legal and de facto discrimination concerning the rights secured by Article 19§4 of the Charter (Conclusions III (1973), Statement of interpretation).

In its previous conclusion, the Committee noted that the report did not address the issue of a judicial or administrative remedy in cases of discrimination (Conclusions 2019). It concluded that the situation in Georgia was not in conformity with Article 19§4 of the Charter on the ground that it had not been established that the right to equality regarding employment, right to organise and accommodation is subject to an effective mechanism of monitoring or judicial review.

The report indicates that since 2014, the Public Defender examines individual and collective applications on alleged facts of discrimination submitted by individuals or initiated *ex officio*. It further provides information on the proceedings in such cases. The report states that during the reference period, no claim regarding workplace discrimination was filed with the Public Defender's Office, and the Public Defender's Office did not establish any fact of discrimination against migrant workers at the workplace.

The further report states that since 2020, the Labour Inspection is responsible for monitoring working conditions and compliance with the requirements of labour law. According to the report, during the reference period, the Labour Inspection Service detected no violation of the principle of non-discrimination in respect of migrant workers. The Labour Inspection Service detected no case of forced labour and labour exploitation against migrant workers.

As for judicial practice, according to the information presented by the Supreme Court, cases of discrimination against migrants are not registered separately. According to the information provided by the city courts, 48 cases related to discrimination in labour relations were examined during the reference period. Out of 48 cases, discrimination was established in 8 cases. The grounds of discrimination were related to: age (13 cases, including sexual harassment in 2 cases), political (9 cases), unequal treatment (8 cases), trade union membership (6 cases), etc.

The Committee notes that no information is provided in respect of the monitoring and judicial review of discrimination cases regarding accommodation of migrant workers and their families. It recalls that under Article 19§4(c), equal treatment can only be effective if there is a right of appeal before an independent body against the relevant administrative decision. The Committee considers that existence of such review is important for all aspects covered by Article 19§4.

Given the repeated lack of information and considering the previous conclusion of non-conformity on this point, the Committee considers that the situation in Georgia is not in conformity with Article 19§4 of the Charter on the ground that the right to equality regarding accommodation of migrant workers and their families is not subject to an effective mechanism of monitoring or judicial review.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 19§4 of the Charter on the grounds that:

- migrant workers lawfully resident in the country are not treated equally to nationals with regard to accommodation;
- the right to equality regarding accommodation of migrant workers and their families is not subject to an effective mechanism of monitoring or judicial review.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 5 - Equality regarding taxes and contributions

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee recalls that no targeted questions were asked for Article 19§5 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children, families and migrants” thematic group).

As the previous conclusion found the situation in Georgia to be in conformity with the Charter (Conclusions 2019), there was no examination of the situation in 2023 on this point. Therefore, the Committee reiterates its previous conclusion.

Conclusion

The Committee concludes that the situation in Georgia is in conformity with Article 19§5 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 6 - Family reunion

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee points out that no targeted questions were asked in relation to Article 19§6 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In the previous conclusions (Conclusions 2019), the Committee considered that the situation in Georgia was not in conformity with Article 19§6 of the Charter on the grounds that it had not been established that State facilitated as far as possible the reunion of the families of migrant workers and that family members of a migrant worker were not granted an independent right to stay after exercising their right to family reunion.

In the present conclusion, assessment of the Committee will therefore concern the information provided by the Government in response to the previous conclusion of non-conformity.

Scope

This provision obliges States Parties to allow the families of migrants legally established in the territory to join them. According to Appendix to the revised European Social Charter, for the purpose of applying Article 19§6, the term “family of a foreign worker” is understood to mean at least the worker’s spouse and unmarried children, as long as the latter are considered to be minors by the receiving State and are dependent on the migrant worker.

The Committee has already assessed the scope of the right to family reunion in Georgia in its previous conclusions (see, Conclusions 2019, 2017 and 2015).

The Committee takes note of the information provided in the report that on 12 May 2021, new amendments to the Law on the Legal Status of Aliens and Stateless Persons” came into force and as a result, the concept of “family member” has been narrowed: adult descendants are now excluded from the scope of family members.

Conditions governing family reunion

The Committee recalls that a state must eliminate any legal obstacle preventing the members of a migrant worker’s family from joining him (Conclusions II (1971), Cyprus). Any limitations upon the entry or continued present of migrant workers’ family must not be such as to be likely to deprive this obligation of its content and, in particular, must not be so restrictive as to prevent any family reunion (Conclusions XVII-1 (2004), the Netherlands; Conclusions 2011, Statement of Interpretation on Article 19§6).

The Committee furthermore recalls, taking into account the obligation to facilitate family reunion as far as possible under Article 19§6, that States Parties should not adopt a blanket approach to the application of relevant requirements, so as to preclude the possibility of exemptions being made in respect of particular categories of cases, or for consideration of individual circumstances (Conclusions 2015, Statement of Interpretation on Article 19§6). In particular, the Committee recalls that 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. 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. Furthermore, the level of means or sufficient accommodation required by States Parties to bring in the family or certain family members should not be so restrictive as to prevent any family reunion, and social benefits shall not be excluded from the calculation of the income of a migrant worker who has applied for family reunion (Conclusions 2011, Statement of Interpretation on Article 19§6).

In Conclusions 2017, the Committee considered that the situation in Georgia was not in conformity with the Charter on the ground that it had not been established that the State facilitated as far as possible the reunion of the families of migrant workers. It observed in this respect that the requirements as to health, means, accommodation and length of residence prior to eligibility were so restrictive that they might prevent any family reunion.

In conclusions 2019, the Committee found that the previous report did not reply to its request for clarification as to what are the diseases listed by the Ministry of Labour, Health and Social Affairs as an obstacle to the granting of a permit for family reunion. It also found that the previous report did not confirm that social benefits were included when assessing the income of the person requesting a permit for a member of his/her family (the required level of means stands above double the amount of the minimum subsistence level). The Committee further observed that no information was provided in the previous report on the details of the accommodation requirements. The Committee therefore reiterated its conclusion of non-conformity on this point.

In reply, the report indicates that Order N300/N of the Minister of Labour, Health and Social Protection of 14 November 2006 defines a list of infectious and other diseases, the nature, severity and duration of which may pose a threat to the population of Georgia and may serve as a basis for rejecting a residence permit to a foreigner in Georgia. According to the report, these diseases include: HIV Disease caused by human immunodeficiency virus (excluding asymptomatic human immunodeficiency virus [HIV] infection status); Leprosy – Hansen's disease (infectious disease caused by mycobacterium leprae, excluding B92 – Sequelae of leprosy); tuberculosis (infectious disease caused by mycobacterium tuberculosis and mycobacterium bovis, excluding congenital tuberculosis); pneumoconiosis associated with tuberculosis, sequelae of tuberculosis and silicotuberculosis.

The report does not provide any answer to the Committee's previous questions as to whether social benefits are included when assessing the income of the person requesting a permit for a member of his/her family. Nor does it provide any information on the details of accommodation requirements. The Committee therefore reiterates its conclusion of non-conformity on these points.

In its previous conclusion (Conclusions 2019), the Committee asked for clarifications about the procedure and decision-making process to assess whether the granting of a residence permit on family reunion did not pose a risk to state security and/or public safety interests. It asked, in particular, what types of considerations such a decision could take into account and what criteria applies to assess the risks.

The report indicates that the evaluation and discussion as to whether the granting of a residence permit on family reunion did not pose a risk to state security and/or public safety interests is beyond the competence of Public Services Development Agency (PSDA) of the Ministry of Justice of Georgia. It also indicates that the criteria concerning the risk to the security of the state is assessed by the competent authorities based on which the PSDA renders decision on the request on issuing residence permit to a family member.

In the previous report (Conclusions 2019), the Committee recalled that once a migrant worker's family members have exercised the right to family reunion and have joined him/her in the territory of a State, they should have an independent right to stay in that territory. The Committee noted from the previous report that family members' permits remain contingent

upon the right to stay of the migrant worker and therefore concluded that the situation was not in conformity with the Charter in this respect.

In their submissions, the Public Defender's Office states that they studied cases in which the courts, by referring to the principle of family reunification annulled decisions of Ministry of Foreign Affairs to expel foreigners. According to the Office, despite the entry into force of such decisions rejecting expulsion, the current national legislation does not envisage the possibility of issuing any type of document confirming the legality of stay in the country. According to the Office, absence of such a document negatively affects enjoyment of rights by a foreigner, such as the right to become employed, conclude agreements, etc.

In the absence of any reply in the report concerning the previous conclusion of non-conformity in this respect, the Committee reiterates its conclusion of non-conformity on this point.

Remedy

The Committee recalls that restrictions on the exercise of the right to family reunion should be subject to an effective mechanism of appeal or review, which provides an opportunity for consideration of the individual merits of the case consistent with the principles of proportionality and reasonableness (Conclusions 2015, Statement of Interpretation on Article 19§6).

In the previous conclusion (Conclusions 2019), the Committee noted that the previous report did not provide any reply to its request for information and statistical data concerning appeals relating to the granting of residence permits on family reunion grounds. It reiterated its request in these respects and considered that should the next report not provide comprehensive information, there would be nothing to establish that the situation is in conformity with the Charter on this point.

In the absence of a reply to its request for information, the Committee concludes that the situation is not in conformity with the Charter on this point due to the failure to provide the required information. The Committee considers that this failure to provide information amounts to a breach by Georgia of their reporting obligations under Article C of the Charter.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 19§6 of the Charter on the grounds that:

- social benefits are not included when assessing the income of the person requesting a permit for a member of his/her family;
- accommodation requirements are so restrictive that they might prevent any family reunion;
- family members of a migrant worker are not granted an independent right to stay after exercising their right to family reunion.

Due to the failure to provide the information listed below, the Committee concludes that that situation in Georgia is not in conformity with the Charter. The Committee considers that this failure to provide information amounts to a breach by Georgia of their reporting obligations under Article C of the Charter. List of questions/Information missing:

- information and statistical data concerning appeals relating to the granting of residence permits on family reunion grounds.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 7 - Equality regarding legal proceedings

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee points out that no targeted questions were asked in relation to Article 19§7 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In the previous conclusions (Conclusions 2019), the Committee deferred its conclusions pending receipt of the information requested. In the present conclusion, the assessment of the Committee will therefore concern the information provided by the Government in response to its previous questions.

In Conclusions 2015, the Committee took note of the legal provisions in force in Georgia concerning the Legal Aid Service, providing free advocacy service in criminal cases and certain civil and administrative cases such as social protection and family law, if either the accused is insolvent and requests a lawyer, or the case belongs to the category of compulsory defence. In Conclusions 2015, the Committee took note that migrants are subject to the same criteria as nationals and can therefore benefit from the provision of legal aid where the interests of justice require. While noting that counsel may be provided in cases where the defendant does not understand the language of proceedings, the Committee asked whether the provision of assistance extends to interpretation so that the litigant is fully aware of the situation.

In Conclusions 2019, in the absence of a response to its previous question, the Committee deferred its conclusions, pending receipt of the information requested.

In reply, the report indicates that in order to ensure the enjoyment of the right to fair trial, the Constitution imposes on the State the obligation to ensure the right to the assistance of an interpreter for persons who do not speak the official language. The report further indicates that according to Article 17§2 of the Criminal Procedure Code “A participant in proceedings who has no or appropriate command of the language of the criminal proceedings, shall have the right to make a statement, give testimony and explanation, file a petition and challenge, file a complaint, appear in court in his/her native language or in any other language he/she speaks. In such cases, a participant in proceedings shall have the right to use the services of an interpreter”.

The report also indicates that Article 258 of the Administrative Offences Code regulates the use of interpreter’s services during administrative proceedings. The Civil Procedure Code regulates the participation of an interpreter in civil proceedings, as well as in administrative proceedings. In particular, according to Article 9§4 of the Civil Procedure Code, legal proceedings shall be conducted in the Georgian language. An interpreter shall be assigned to a person who has no command of the Georgian language.

Conclusion

The Committee concludes that the situation in Georgia is in conformity with Article 19§7 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 8 - Guarantees concerning deportation

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee points out that no targeted questions were asked in relation to Article 19§8 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In the previous conclusions (Conclusions 2019), the Committee, recalling that previously (Conclusions 2015) it had found the situation in Georgia to be in conformity with Article 19§8 of the Charter, and observing that there had been no changes in the legislation and practice in these respects, concluded that the situation was in conformity with Article 19§8. In the 2019 conclusion for Georgia, the Committee did not raise any question in respect of Article 19§8.

Since no targeted questions were asked under Article 19§8, and the previous conclusion found the situation in Georgia to be in conformity with the Charter without requesting any information, there was no examination of the situation in 2023.

Conclusion

The Committee concludes that the situation in Georgia is in conformity with Article 19§8 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 9 - Transfer of earnings and savings

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee points out that no targeted questions were asked in relation to Article 19§9 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In the previous conclusion (Conclusions 2019), the Committee, pending receipt of the information requested, deferred its conclusions. The assessment of the Committee in the present conclusion will concern the information provided in response to the previous conclusion of deferral.

In the previous conclusion (Conclusions 2019), the Committee noted that no changes had been reported to the situation which it had previously found to be in conformity with the Charter. Referring to its Statement of interpretation on Article 19§9 (Conclusions 2011), the Committee reiterated its question on whether there are any restrictions in respect of transfer of movable property of migrant workers.

The report states that the tax and custom legislation of Georgia does not impose any restriction on the transfer of migrant workers’ movable property.

Conclusion

The Committee concludes that the situation in Georgia is in conformity with Article 19§9 of the Charter.

Article 19 - Right of migrant workers and their families to protection and assistance

Paragraph 10 - Equal treatment for the self-employed

The Committee takes note of the information contained in the report submitted by Georgia.

On the basis of the information in the report the Committee notes that there continues to be no discrimination in law between migrant employees and self-employed migrants in respect of the rights guaranteed by Article 19.

However, in the case of Article 19§10, a finding of non-conformity in any of the other paragraphs of Article 19 ordinarily leads to a finding of non-conformity under that paragraph, because the same grounds for non-conformity also apply to self-employed workers. This is so where there is no discrimination or disequilibrium in treatment.

The Committee has found the situation in Georgia not to be in conformity with Articles 19§1, 19§2, 19§4, 19§6, 19§11 and 19§12 of the Charter. Accordingly, for the same reasons as stated in the conclusions on the abovementioned Articles, the Committee concludes that the situation in Georgia is not in conformity with Article 19§10 of the Charter.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 19§10 of the Charter as the grounds of non-conformity under Articles 19§1, 19§2, 19§4, 19§6, 19§11 and 19§12 apply also to self-employed migrants.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 11 - Teaching language of host state

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee points out that no targeted questions were asked in relation to Article 19§11 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In the previous conclusion (Conclusions 2019), the Committee found the situation in Georgia not to be in conformity with Article 19§11 of the Charter on the ground that it had not been established that the State adequately promotes and facilitates the teaching of the national language to migrant workers and members of their families. In the present conclusion, the assessment of the Committee will therefore concern the information provided in response to the previous conclusion of non-conformity.

In the previous conclusion (Conclusions 2019), the Committee reiterated its question as regards the language training and assistance for children of migrant workers in schools and on language courses available to all adult migrants, not only those under the international protection.

In reply, the report indicates that currently, there is no such training programme at the level of preschool and general education. According to the report, in order to promote integration into Georgian schools, a one-year Georgian language course is offered to persons defined by the Law of Georgia on International Protection. Currently, the mentioned programme is being expanded and one-year distance courses are being offered to other persons as well. The Ministry of Education and Science has identified students who are in need of learning the official language. About 120 such students have been identified. The programme has been implemented since 2015, within the framework of which a one-year Georgian language training course is provided free of charge to asylum seekers and persons with international protection from 6 to 18 years of age.

In addition, the report states that the Zurab Zhvania School of Public Administration LEPL is carrying out Official language Teaching and Integration Programme for representatives of national/ethnic minorities living in Georgia and other persons interested in learning the Georgian language (foreign nationals holding a refugee and humanitarian status, foreign nationals holding a residence permit in Georgia and stateless persons with a status in Georgia). According to the report, from 2018 to 2021, the Zurab Zhvania School, in cooperation with the Agency for Internally Displaced Persons (“IDPs”), Eco-migrants and Livelihoods under the Ministry of IDPs from the Occupied Territories, Labour, Health and Social Affairs, retrained 255 persons within the framework of the official language teaching and integration programme. In 2018-2019, only persons with international protection and refugee status were enrolled in the programme, and from 2020 onwards – the programme was extended also to persons with temporary residence permit and no status.

The report further explains that In 2019-2020, the Zurab Zhvania School, in cooperation with World Vision Georgia, implemented the project "Teaching the official language to foreigners and stateless persons".

In reply to the Committee’s previous request for information (Conclusions 2019) on the language courses that are conducted at vocational education institutions and through the School of Public Administration, the report states that within the vocational education system, the Vocational education and training (“VET”) of a Georgian citizen, an asylum seeker, a refugee or a person with humanitarian status is fully financed by the State.

The report also provides that starting from 2020, work began on developing a new approach, which involves the introduction of an official language training programme by vocational education institutions. Draft rule for the development and implementation of an official language training programme was elaborated. After the implementation of the approach developed by the Vocational Skills Agency and the Ministry of Education, the vocational education system will offer an official language training programme, which will create an opportunity for non-Georgian speaking applicants to enrol in a vocational education programme after successfully completing the official language preparatory programme.

The Committee reiterates that the teaching of the national language of the receiving state is the main means by which migrants and their families can integrate into the world of work and society at large. States therefore should promote and facilitate the teaching of the national language to children of school age, as well as to migrants themselves and to members of their families who are no longer of school age (Conclusions 2019, Georgia). The Committee understands from the information submitted in the report that apart from the Language Teaching and Integration Programme conducted by Zurab Zhvania School of Public Administration, which, from 2020 onwards, was extended to all persons with temporary residence permit and/or no status, the Georgian language courses are offered only to persons under international protection and do not cover all migrant workers and members of their families.

In their submissions, the Public Defender's Office refers to the one-year Georgian language course program implemented since 2015 and provided free of charge to asylum seekers and persons with international protection. The office criticises the implementation of the program in only 3 public schools and enrolment only twice a year.

The Committee takes note of the current efforts in schools to develop individual plans for teaching the Georgian language and ensuring integration for all migrants. However, at the current stage, the Committee finds that the situation in Georgia is not in conformity with Article 19§11 of the Charter on the ground that, with the exception of migrants under international protection, the State does not adequately promote and facilitates the teaching of national language to all migrant workers and members of their families.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 19§11 of the Charter on the ground that, with the exception of migrants under international protection, the State does not adequately promote and facilitates the teaching of national language to all migrant workers and members of their families.

Article 19 - Right of migrant workers and their families to protection and assistance
Paragraph 12 - Teaching mother tongue of migrant

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee points out that no targeted questions were asked in relation to Article 19§12 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In the previous conclusions (Conclusions 2019), the Committee deferred its conclusions pending receipt of the information requested.

In the present conclusion, assessment of the Committee will therefore concern the information provided by the Government in response to the previous conclusion of deferral.

In its previous conclusion (Conclusions 2019), the Committee took note that state-financed foreign language schools operate in Georgia, teaching a number of languages and that these include those of the largest migrant groups: Russian, Ukrainian, as well as Armenian, Azerbaijani and English. The Committee therefore noted that children of migrant workers have access to the multilingual educations and asked the next report to provide more details on what steps the Government had taken to facilitate it.

In its previous conclusion (Conclusions 2019), the Committee also noted that the following information was not provided, preventing the Committee from making a comprehensive assessment whether the situation satisfied the requirements of Article 19§12:

- information on what additional educational programs for the instruction of foreign languages exist,
- information on availability of mother tongue language classes for migrant worker’s children outside the school system,
- information on other bodies, such as local associations, cultural centres or private initiatives that teach migrant workers’ children the language of their country of origin,
- information on whether any non-governmental organisations provide teaching of migrants’ languages, and whether they receive support.

The Committee considered (Conclusions 2019) that should the information requested not be provided in the next report, there would not be sufficient information to demonstrate that the situation was in conformity with Article 19§12 of the Charter.

The report states that according to the information available to the Ministry of Education and Science of Georgia, the number of children living in migrant workers’ families is not so high as to pose the need for such support. Instead, the report provides information on the project “Georgian Language for Immigrants”, the purpose of which is to popularise the Georgian language and culture among Georgian children living abroad and promote their rapprochement with Georgia.

The Committee recalls that under Article 19§12, the contracting parties undertake “to promote and facilitate, as far as practicable, the teaching of the migrant worker’s mother tongue to the children of the migrant worker”. Therefore, the information provided in the report concerning the teaching of Georgian language and culture among Georgian children living abroad is not relevant under this provision.

As to the statement in the report that the number of children living in migrant workers’ families is not so high as to pose the need for such support, the Committee notes that according to the figures provided by the International Organisation for Migration (IOM), in 2020, the total number of migrants in Georgia is more than 76,000, and the share of international migrants of

19 years old and younger residing in the country is 21.4%. In the absence of any figures or statistics provided by the report as to the number of children living in migrant workers' families, the Committee considers that the information at its disposal is not sufficient to demonstrate that the situation is in conformity with the Charter.

Due to the failure to provide the information on what additional educational programs for the instruction of foreign languages exist, on availability of mother tongue language classes for migrant worker's children outside the school system, on other bodies, such as local associations, cultural centres or private initiatives that teach migrant workers' children the language of their country of origin, and on whether any non-governmental organisations provide teaching of migrants' languages, and whether they receive support, the Committee concludes that the situation in Georgia is not in conformity with Article 19§12 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Georgia of their reporting obligations under Article C of the Charter.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 19§12 of the Charter due to the failure to provide the information listed below. The Committee considers that this failure to provide information amounts to a breach by Georgia of their reporting obligations under Article C of the Charter. List of questions/Information missing:

- information on what additional educational programs for the instruction of foreign languages exist,
- information on availability of mother tongue language classes for migrant worker's children outside the school system,
- information on other bodies, such as local associations, cultural centres or private initiatives that teach migrant workers' children the language of their country of origin,
- information on whether any non-governmental organisations provide teaching of migrants' languages, and whether they receive support.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 1 - Participation in working life

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee recalls that no targeted questions were asked in relation to Article 27§1 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral, or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In its previous conclusion, the Committee considered that the situation in Georgia was not in conformity with Article 27§1 of the Charter on the ground that the legislation does not specifically provide for mechanisms facilitating the reconciliation of working and private life for people with family responsibilities (Conclusions 2019). The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of non-conformity.

Employment, vocational guidance and training

In its previous conclusions (Conclusions 2019), the Committee asked for the next report to specify whether there are placement services, information programmes, or training measures for workers with family responsibilities (specifically for jobseekers), and in the meantime, it reserved its position on this matter. It also recalls that, in 2017 and 2015, the situation in Georgia was found to not be in conformity on the grounds that it had not been established that there were services providing vocational guidance, training, and retraining for workers with family responsibilities.

In reply, the report states that, since October 2019, the State Employment Support Agency (SESA) was established to promote employment and became operational on 1 January 2020. Its activities include registering job seekers and vacancies, managing the labour market information system, and implementing State employment programmes, as well as cooperating with employers, employers’ organisations and private employment agencies with a view to offering effective intermediary, information and counselling services to jobseekers.

The report also states that under the National Labour and Employment Strategy, the measures planned for the period 2019-2023 include short-term vocational training and retraining programmes, internships, basic skills development, wage subsidies, as well as sheltered workplaces and public employment.

Lastly, according to the report, the Labour Code guarantees access to training (Article 22 par. 2) after maternity leave, parental leave, or leave to adopt a newborn child. The employer, upon an employee’s request, must ensure the development of the employee’s qualifications if this is necessary for the work they perform under the employment agreement and if this does not impose a disproportionate burden on the employer.

Conditions of employment, social security

In its previous conclusions (Conclusions 2019, 2017, and 2015), the Committee found that the situation was not in conformity with Article 27§1 of the Charter on the ground that it had not been established that the legislation specifically provides for the facilitation of reconciliation of working and private life for persons with family responsibilities and asked the next report to describe any provisions included in legislation and/or collective agreements on working conditions that may facilitate the reconciliation of working and private life, such as part-time work, working from home or flexible working hours.

In reply, the report states that the Labour Code provides for part-time employment and the protection of part-time workers from discrimination based on their status. According to Article 16 par. 2 of the Code, in respect of employment conditions, part-time employees may not be treated less favourably than full-time employees for the sole reason that they work part-time. Any difference in treatment must be justified on objective grounds. In accordance with Article 16 par. 3 of the Code, the employment agreement may not be terminated in the event that an employee refuses to transfer from full-time to part-time or vice versa, unless certain preconditions are met. In addition, the report provides information on the Labour Code's provisions facilitating mothers breastfeeding infants under 12 months of age (the breastfeeding break is included in working time and paid), the possibility of additional unpaid parental leave ranging from a minimum of two weeks up to 12 weeks per year, until the child turns 5 years old, and the possibility for people caring for or representing a person with a disability to benefit from one additional paid day off per month.

In its previous conclusion (Conclusions 2019), the Committee asked whether periods of absence were taken into account when determining the right to a pension and for calculating the pension amount, and pointed out that, should this information not be provided, there would be nothing to enable it to establish that the situation in Georgia is in conformity with Article 27§1 of the Charter in this respect.

The Committee recalls that periods of unemployment due to family responsibilities should be taken into account in the calculation of pension schemes or in the determination of pension rights (Conclusions 2003, Sweden).

The Committee notes that the report does not provide the information requested. Due to the failure to provide the requested information, the Committee concludes that the situation in Georgia is not in conformity with Article 27§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Georgia of its reporting obligations under Article C of the Charter.

The Committee notes the information from the report concerning the changes to Georgia's Constitution in December 2018, which was amended by the addition of an equality clause that mandates the State to establish and implement special laws, policies, programmes, and measures which would ensure that women benefit from genuinely equal opportunities.

Child day care services and other childcare arrangements

In its previous conclusions (Conclusions 2019), the Committee asked for updated information on the provision of places in preschool institutions.

In reply, the report provides the information that during the 2018-2021 period, 30 early and preschool education institutions were built, and one was renovated, which benefited 2 110 beneficiaries. According to the report, the Ministry of Regional Development and Infrastructure is continuing its work in the same direction.

Covid-19

In the context of the Covid-19 crisis, the Committee asked all States to provide information on whether the Covid-19 crisis had had an impact on the rights of workers with family responsibilities to equal opportunities and treatment, in particular on the possibility to work remotely and its consequences.

In reply, the report states that the Covid-19 crisis did not have any negative impact on the possibility of remote work for any type of worker. However, during the pandemic, some employees lost their jobs or income, because many enterprises needed to reduce the number of employees or place them on unpaid leave. The report further states that according to the targeted State programme that the Government established by Decree No. 286 to alleviate the damage caused by the Covid-19 pandemic, the employees affected were eligible for compensation of 200 GEL (€72.74) per month for 6 months (amounting to 1200 GEL

(€436.44)), while informal/non-registered employees were eligible for a lump sum payment of 300 GEL (€109.1), from the State budget.

Conclusion

Due to the failure to provide the information listed below, the Committee concludes that the situation in Georgia is not in conformity with Article 27§1 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Georgia of its reporting obligations under Article C.

List of questions/information missing: whether periods of absence from employment due to family responsibilities are taken into consideration when determining the right to a pension and calculating pension amounts.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 2 - Parental leave

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee recalls that no targeted questions were asked in relation to Article 27§2 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral, or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

In its previous conclusion, the Committee considered that the situation in Georgia was not in conformity with Article 27§2 of the Charter on the grounds that fathers had no right to use a part of parental leave on an individual, non-transferrable basis; and no arrangements have been set up to remunerate parents on parental leave beyond the 183rd day or on additional childcare leave (Conclusions 2019). The assessment of the Committee will therefore concern the information provided in the report in response to the conclusion of non-conformity.

Entitlement to the parental leave

In its previous conclusions (Conclusions 2019, 2017, and 2015), the Committee found that the situation in Georgia was not in conformity with Article 27§2 of the Charter on the grounds that it had not been established that fathers had a right to use a part of parental leave on an individual, non-transferable basis.

The report states that, in September 2020, a large-scale labour law reform was carried out, which included extensive amendments to the Labour Code and resulted in higher standards in respect of parental leave. According to the report, a provision allowing for parental leave to be used by both parents was introduced. The report further provided the link to the Labour Code (*Organic Law of Georgia No 7177 of 29 September 2020*).

The Committee welcomes the information provided by the report. It notes that parental leave may be used by both parents. However, from the information provided by the report, or from Article 37. par 4 of the Labour Code, it cannot be concluded that the fathers have the right to use a part of parental leave on an individual, non-transferable basis.

The Committee recalls the following: the national laws should entitle men and women to an individual right to parental leave on the grounds of the birth or adoption of a child; with a view to promoting equal opportunities and equal treatment between men and women, the leave should, in principle, be provided on a non-transferable basis to each parent (Conclusions 2011, Armenia); the States Parties are under a positive obligation to encourage the use of parental leave by either parent (Conclusions 2015, Statement of Interpretation on Article 27§2).

The Committee concludes that the situation in Georgia is not in conformity with Article 27§2 on this point.

In its previous conclusion (Conclusions 2019), the Committee reiterated its previous request for the report to provide information on whether further amendments had been adopted to ensure that private sector employees are entitled to parental leave which can be used by both parents.

The report does not specify whether the provisions regarding parental leave apply to both public- and private-sector employees. However, the Committee notes that, in Article 37, the Labour Code refers to the private sector (since, according to the scope laid down in Article 1 of the Code, it “regulates labour and its concomitant relations in the territory of Georgia, unless they are otherwise governed by other special law or international agreements of Georgia”).

Definition, duration, and conditions

In its previous conclusions (Conclusions 2019 and 2017), the Committee asked whether a particular provision of the Labour Code covered both maternity and parental leave (up to 730 days) and if so, what was the proportion of parental leave.

The Committee notes that the report did not directly respond to the question. Moreover, the details provided under Article 27§2 concern maternity and not parental leave. Specifically, the report only refers to Article 37 par. 1 of the Labour Code concerning the period of paid maternity leave, Article 37 par. 2 of the Labour Code concerning the distribution of the pregnancy and postnatal period, and Article 37 par. 4 of the Labour Code which provides that a father has the right to use the part of the maternity leave which has not been used by the mother.

The Committee recalls that Article 27§2 provides for the right to parental leave which is distinct from maternity (and paternity) leave addressed under Article 8§1 of the Charter and focuses on the leave granted after the maternity leave (Conclusions 2011, Azerbaijan). Therefore, the Committee notes that the correct approach would be for the reports to distinguish between these two rights and to provide distinctive information accordingly.

However, the report did provide a link to the Labour Code (*Organic Law of Georgia No 7177 of 29 September 2020*). According to Article 37 par. 3 of the said Law “An employee shall, upon his/her request, be granted parental leave of 604 calendar days, and in the case of complications during childbirth or the birth of twins, a parental leave of 587 calendar days. 57 calendar days of the leave shall be paid”. Parental leave, according to par. 4 “may be enjoyed in whole or in parts by the mother or the father of the child”, while according to par. 5, the paid part must be used following maternity leave. The maternity and parental leave may add up to 730 days.

The Committee also notes the information provided by the report in its reference to the Article 27§1b of the Charter that according to Article 40 of the Labour Code, upon an employee’s request, there is the possibility of additional unpaid parental leave up to 12 weeks, or not less than 2 weeks per year, which can be used until the child is 5 years old and may be granted to the employee responsible for taking care of the child.

Remuneration

In its previous conclusions (Conclusions 2019, 2017, and 2015), the Committee found that the situation in Georgia was not in conformity with Article 27§2 of the Charter on the grounds that there are no arrangements (i.e. social security benefits or social assistance schemes) for the remuneration of parents on parental leave beyond 183 days or on additional childcare leave.

17. The Committee notes from Article 37 par. 3 of the Labour Code, that 57 calendar days of parental leave are remunerated. Since the 57 calendar days of paid parental leave are taken after paid maternity leave of 126 calendar days, or 143 calendar days in the case of complications during childbirth or the birth of twins, the total of paid leave amounts to 183 or 200 days respectively.

18. The Committee concludes that the situation in Georgia is in conformity with Article 27§2 of the Charter on this point.

Covid-19

In the context of the Covid-19 crisis, the Committee asked all States to provide information on whether the Covid-19 crisis had an impact on the right of workers with family responsibilities to parental leave.

In response, the report states that under the State programme to mitigate the damage caused by the Covid-19 pandemic, which the Government established by Decree No. 286, people who were on leave because of childbirth, maternity, childcare or the adoption of a new-born,

including those whose employment had been terminated or suspended, were eligible for the compensation.

Conclusion

The Committee concludes that the situation in Georgia is not in conformity with Article 27§2 of the Charter on the ground that that the right to parental leave is not established as an individual right of each parent, a part of which is non-transferable.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment

Paragraph 3 - Illegality of dismissal on the ground of family responsibilities

The Committee takes note of the information contained in the report submitted by Georgia.

The Committee recalls that no targeted questions were asked for Article 27§3 of the Charter. For this reason, only States in relation to which the previous conclusion had been a conclusion of non-conformity, deferral, or conformity pending receipt of information were required to provide information for this provision in the current reporting cycle (see the appendix to the letter in which the Committee requested a report on the implementation of the Charter in respect of the provisions relating to the “Children families and migrants” thematic group).

As the previous conclusion (Conclusions 2019) found the situation in Georgia to be in conformity with Article 27§3 of the Charter, there was no examination of the situation in 2023 on this point. Therefore, the Committee reiterates its previous conclusion.

Covid-19

In the context of the Covid-19 crisis, the Committee asked all States to provide information on

- whether the Covid-19 crisis had an impact on the prohibition of dismissal on the ground of family responsibilities and whether there were any exceptions to the prohibition of dismissal on the ground of family responsibilities during the pandemic and
- whether a ceiling on compensation for unlawful dismissals was applied on the ground of family responsibilities during the Covid-19 crisis.

In reply to the first question, the report states that during the pandemic, the regulations concerning the prohibition of dismissal on any ground remained unchanged, and in reply to the second question, based on information provided by the Courts, there were no cases discussed related to unlawful dismissal of workers with family responsibilities during the Covid-19 crisis.

Conclusion

The Committee concludes that the situation in Georgia is in conformity with Article 27§3 of the Charter.