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## **European Social Charter (REVISED)**

European Committee of Social Rights

Conclusions 2023

**SERBIA**

*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 Serbia, which ratified the Revised European Social Charter on 14 September 2009. The deadline for submitting the 12th report was 31 December 2022 and Serbia submitted it on 28 March 2023.

The Committee recalls that Serbia 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.

Serbia has not accepted the following provisions from the above-mentioned group: 19§11, 19§12, 27§§1-3, 31§§1-3.

The conclusions relating to Serbia concern 28 situations and are as follows:

- 10 conclusions of conformity: Articles 7§2, 7§§6-8, 7§10, 8§1, 8§3, 19§1, 19§2, 19§5.
- 18 conclusions of non-conformity: 7§1, 7§§3-5, 7§9, 8§2, 8§§4-5, 16, 17§§1-2, 19§§3-4, 19§§6-10.

Conclusions and reports are available at [www.coe.int/socialcharter](http://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 Serbia.

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 found that the situation in Serbia was not in conformity with Article 7§1 of the Charter as it had not been established that the protection of children under the age of 15 against child labour was guaranteed in practice.

The Committee notes that the report provides statistics collected by the labour inspection services regarding the number of children aged below 15, as well as aged 15-18, who were found in employment in the years 2018-2020. According to the report, to reduce the occurrence of child labour, which constitutes a form of violence against children, a roadmap to eliminate the exploitation of child labour was developed, in cooperation with the ILO, for the period 2018-2022. This roadmap included activities aimed at the more effective prevention and elimination of the consequences of child labour.

The Committee further notes that the data collected from the centres for social work (CSWs) for 2021 show a total of 39 victims of child labour exploitation on the records of the CSWs, 61.5% of whom were of primary school age. Out of a total of 39 children, 35 were involved in begging.

The report states that a regulation on light work by children is being prepared in cooperation with the ILO. According to the report, this regulation will define light work and the conditions under which children may be employed in this type of work in within the meaning of Article 7§§1 and 2 of the Charter, Article 8 of the ILO Convention No. 138, and Council Directive 94/33/EC on the protection of young people at work. The purpose of this regulation is to ensure the protection of children in cases where their work is authorised in accordance with the regulations in the field of work, safety and health at work, children's rights and their education and training, and in line with this regulation and other legislation.

The Committee further notes that when monitoring child labour, labour inspectors verify the correct implementation of the provisions of the Labour Act and the Occupational Safety and Health Act with respect to child labour. A special protocol for labour inspectorates, including a revised checklist for supervising inspections in the field of child labour, was adopted as part of the first phase of the project entitled Engagement and support at the national level to reduce the occurrence of child labour, as well as in the second phase of the project entitled Measurement, awareness raising, and policy engagement which mobilises policymaker to improve the fight against the exploitation of child labour and forced labour in Serbia (MAP 16 Project).

Within this project, the CWSs cooperate with the police, schools, the institution for housing children, health institutions in the case of 6 children, and with a centre for family accommodation and adoption.

As regards the level of priority in handling reports of child labour abuse, the centres for social work intervened immediately in 18 cases (they reacted within 24 hours), urgent action was also taken in 18 cases (the initial assessment was started within 72 hours), and due process was applied in three cases. The decision to prioritise as 'immediate' or 'urgent' in 36 cases indicates that the risk to the safety of these children was high, as was the severity of the circumstances in which they found themselves, and that it was necessary to react quickly to ensure their safety.

The Committee notes from the National Child Labour Survey (International Labour Organization and Statistical Office of the Republic of Serbia 2022) that 9.5% of children, or 82 000 children, aged 5–17 are in child labour. Child labour prevalence is lowest for the youngest children aged 5–11 (at 6.7%); it increases to 15.1% among children aged 12–14, and then falls to 10.1 % for older children aged 15–17.

Child labour is mostly found in agriculture, with about 66% of children in child labour involved in agricultural activities, and female children more likely to work in the agriculture sector than male children. About 27% of children work in the service sector, including domestic work. Most children aged 5–17 (about 60%) are engaged as contributing family workers.

The Committee has previously noted that, under Article 24 of the Labour Law, an employment relationship may be established with a person above the age of 15 who meets the other conditions for at the performance of certain tasks, as set out under the law and/or the Rules on Organisation and Systematisation of workplaces. The Committee considers that although child labour is prohibited, including in the case of light forms of work, and despite the fact that there has been some improvement in monitoring child labour, it remains widespread and unregulated, involving 9.5% of children aged 5-17, who are in compulsory education. The Committee therefore reiterates its previous finding of non-conformity with Article 7§1 of Charter on the ground that the protection of children under the age of 15 against child labour is not guaranteed in practice.

### *Conclusion*

The Committee concludes that the situation in Serbia is not in conformity with Article 7§1 of the Charter on the ground that the protection of children under the age of 15 against child labour is not guaranteed in practice.

**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 Serbia.

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 in Serbia was in conformity with the Charter. The Committee reiterates its previous finding of conformity.

*Conclusion*

The Committee concludes that the situation in Serbia 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 Serbia.

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 the Committee considered that the situation was not in conformity with the Charter on the ground that it had not been established that the protection against child labour for children who are still subject to compulsory education was guaranteed.

The Committee noted that the report failed to provide information concerning the types of jobs/tasks that can actually be entrusted to children above 15 years of age, but still in compulsory education. Nor does it say whether children still in compulsory education are entitled to a rest period of two consecutive weeks during the school holidays.

The report states in this regard that Article 30 of the Elementary Education and Training Act provides that primary education and upbringing is carried out for a duration of eight years. A student who has reached 15 years of age is no longer obliged to attend school at the end of that school year. The school is obliged to provide education to a student who has reached the age of 15 and has not received basic education until the age of 17, if requested by the student or his parent or other legal representative. In addition, according to the laws that regulate the education system, a student who has reached the age of 15 and has not received basic education and instruction may continue to acquire education under the programme for basic education for adults.

The Committee notes that the report fails to provide information on protection against child labour for children still in compulsory education after the age of 15. The situation is therefore not in conformity with the Charter.

### *Conclusion*

Due to the failure to provide the information listed below the Committee concludes that the situation in Serbia is not in conformity with Article 7§3 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter. The information is missing on the following point:

-protection of children over 15 years of age but still in compulsory education, against child labour.

## **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 Serbia. It also takes note of observations submitted by the European Trade Union Confederation (ETUC).

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 considered that the situation in Serbia was not in conformity with Article 7§4 of the Charter on the ground that the duration of working time for young workers under the age of 16 was excessive. The Committee noted that according to labour legislation young persons under 16 were allowed to work for eight hours per day, since pursuant to Article 87 of the Labour Law, full time working hours for persons under the age of 18 shall not exceed 35 hours per week or eight hours per day (Conclusions 2019).

The report states that despite the fact that the Labour Law prescribes a high level of protection for employees under the age of 18, the Republic of Serbia will work on further improving the position and protection of young people in the process of harmonizing the Labour Law with international standards. The report further provides that the average daily working time of an employee under the age of 18 (if employed full-time) is 7 hours a day. The Committee notes that according to the information provided in the report, the situation has not changed in the reference period and therefore reiterates its conclusion of non-conformity.

The Committee has also previously recalled that the situation in practice should be regularly monitored. It requested data on the concrete actions, violations identified and sanctions imposed on employers in relation to working time for young persons under the age of 18 who are no longer subject to compulsory school attendance (e.g. violation of Article 87 of the Labour Law), including in the field of agriculture and in dual education system. The report states that during the inspections, the labour inspectors did not find any cases of violation of the provisions of the Labour Law regulating the working hours of employees under the age of 18.

### *Conclusion*

The Committee concludes that the situation in Serbia is not in conformity with Article 7§4 of the Charter on the ground that the duration of working time for young workers under the age of 16 is excessive.

## **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 Serbia.

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 considered that the situation in Serbia was not in conformity on the ground that young workers wages were not fair (Conclusions 2019).

### ***Fair remuneration for young workers and apprentices***

Under Article 7§5 the Committee examines if young workers are paid the equivalent of 80% of a minimum wage in line with the Article 4§1 fairness threshold (60% of the net average wage). Thus, if young workers’ wage amounts to 80% of the minimum threshold required for adult workers (60% of the net average wage), the situation would be in conformity with Article 7§5 (Conclusions XVII-2, Spain). In the present case, as the young workers’ wage is at the same level as the adult workers’ wage, the Committee examines whether the net minimum wage of young workers represents 80% of the minimum threshold required for adult workers (60% of the net average wage). This is at least a 48% of the net average monthly wage.

In its previous conclusion (Conclusions 2019), the Committee noted that the minimum net monthly wage was between 42.7% and 49% of the average net monthly wage during the reference period and as such not sufficient to ensure a decent standard of living.

The report provides that for 2022 the net minimum wage amounted to 401 EUR. The Committee notes from the Statistical Office of the Republic of Serbia that the net average wage for this period stood at 714 EUR. The minimum wage accordingly constituted 56% of the average wage. The Committee thus considers that the situation has been brought into conformity on this point.

The report confirms that in accordance with Article 109 of the Labour Law, a trainee has the right to earn at least 80% of the basic salary for the jobs for which he concluded the employment contract.

### ***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 address these points.

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

### **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 provisions of the Labour Act and the Occupational Safety and Health Act related to child labour are supervised by labour inspectors, who also control the implementation of other regulations related to work of young people. During inspections, labour inspectors apply the Special Protocol for Labour Inspections, the revised Checklist for Inspection Supervision in the Field of Child Labour, as well as the Form for the Field of Child Labour, which is used during extraordinary inspection inspections. The report further provides data on number of inspections in the reference period, violations found and sanctions imposed.

### *Conclusion*

Due to the failure to provide the information listed below the Committee concludes that the situation in Serbia 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 Serbia of their reporting obligations under Article C of the Charter.

Missing information:

- on measures taken to ensure that fair remuneration is guaranteed to young workers in the following context - in atypical jobs (part-time work, temporary work, fixed-term work, casual and seasonal work, self-employed people, independent workers and homeworkers), in the gig or platform economy and on zero hours contracts.

## **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 Serbia.

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 the previous conclusion, the Committee found the situation in Serbia to be in conformity with the Charter, pending receipt of information on the findings of the labour inspectorate.

The report states that labour inspectors control the implementation of the provisions of the Labour Act and the Occupational Safety and Health Act related to child labour. It provides detailed data on the inspections carried between 2018 and 2022, violations discerned and sanctions and penalties imposed.

### *Conclusion*

The Committee concludes that the situation in Serbia 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 Serbia.

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).

In its previous conclusion, the Committee concluded that the situation in Serbia was in conformity with Article 7§7 of the Charter, pending receipt of the information requested (Conclusions 2019).

The Committee asked for information on the activities of the Labour Inspectorate in relation to the paid annual holidays of young workers under 18 and on whether staffing levels and qualifications of Labour Inspectors are sufficient. The report notes that the Labour Inspectorates had not found any violations of the regulations on paid annual leave of young workers under 18 years of age during the reference period.

### *Conclusion*

The Committee concludes that the situation in Serbia 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 Serbia.

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 Serbia was in conformity with Article 7§8 of the Charter, pending receipt of the information requested (Conclusions 2019).

The Committee asked for the definition of "night work" under the national legislation. The report notes that, pursuant to Article 62 of the Labour Code, night work is considered as being any work performed between 10 p.m. and 6 a.m. of the following day.

The Committee asked for information on the activities of the Labour Inspectorate in relation to the prohibition of night work of young workers under 18 years of age and on whether staffing levels and qualifications of Labour Inspectors were sufficient. The report notes that the Labour Inspectorate did not identify any violations of the prohibition of night work of young workers during the reference period.

### *Conclusion*

The Committee concludes that the situation in Serbia is in conformity with Article 7§8 of the Charter.

## **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 Serbia.

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 Serbia was not in conformity with Article 7§9 of the Charter on the ground that it had not been established that young workers under 18 years of age were guaranteed regular medical examinations during employment, what the interval between the examinations was, and how the medical examinations were performed in practice (Conclusions 2019).

The report notes that medical examinations for young workers are provided on a regular or ad-hoc basis, based on the opinion of a specialist in occupational health. In the absence of a medical opinion, medical examinations are provided at the interval specified in the job description. The report further notes that the cost of medical examinations is covered by mandatory health insurance funds. However, the report does not mention whether regular medical examinations are mandatory, does not state the legal basis for such a requirement, does not specify what the length of the interval between medical examinations is, or how these are performed in practice. The Committee, therefore, concludes that the situation in Serbia is not in conformity with Article 7§9 of the Charter on the ground that young workers under 18 years of age employed in occupations prescribed by national laws or regulations are not subject to regular medical control.

### *Conclusion*

The Committee concludes that the situation in Serbia is not in conformity with Article 7§9 of the Charter on the ground that young workers under 18 years of age employed in occupations prescribed by national laws or regulations are not subject to regular medical control.

## **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 Serbia.

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”).

Previously, the Committee deferred its conclusion (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of deferral and the targeted questions.

### ***Protection against sexual exploitation***

The Committee has previously asked for information on the functioning of a monitoring mechanism on the sexual exploitation of children and a mechanism for collecting statistical data in the same field. It further asked whether legislation allowed for the prosecution of child victims of sexual exploitation and children involved in prostitution, whether or not the acts were related to trafficking. It also requested that the next report provide information on the implementation of the Criminal Code with regard to children under the age of 18, including the number of investigations, prosecutions, convictions and sentences applied. It also asked for information on the measures adopted to identify and assist child victims of trafficking (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 all the parties involved must report any suspicion of human trafficking to the Centre for the Protection of Victims of Human Trafficking, which is in charge of formally identifying victims and coordinating their protection. The Strategy for the Prevention and Suppression of Human Trafficking, Especially Women and Children, and the Protection of Victims (2017-2022) was also adopted, with two Action Plans, one for 2017-2018 and the other for 2019-2020. One of the purposes of the Strategy is to protect children from human trafficking and exploitation for purposes of pornography and prostitution and their consequences.

The report states that in 2019, an emergency shelter for victims of human trafficking was opened with 24-hour access and a capacity of up to six people. In 2019, Serbia and North Macedonia signed a cooperation agreement in the field of combatting human trafficking.

The report also provides information on training and the development of indicators for identifying cases and children victims of human trafficking. It also states that child victims of human trafficking may not be subject to criminal prosecution for an act committed in the context of exploitation. Prostitution is not a criminal offense in Serbia.

In reply to the targeted question, the report states that the Centre for the Protection of Victims of Human Trafficking identified the following number of child victims of human trafficking: in 2018 – 32, in 2019 – 25, in 2020 – 24, in 2021 – 17. Major efforts were made in terms of prevention, early detection and protection of child victims of human trafficking, especially among migrants. In 2019, 33 persons were prosecuted for human trafficking. In 2020 – 50 persons, and in 2021 – 43 persons.

The report states that in 2021, a free telephone hotline was set up to report suspected cases of human trafficking. The Strategy for the prevention and protection of children from violence for the period 2020-2023 was adopted in 2020.

The Committee notes from other sources (UN Human Rights Council Working Group on the Universal Periodic Review, forty-third session, 1-12 May 2023) that 155 children were registered as victims of trafficking in Serbia in 2020 and Serbia still lacked adequate prevention and treatment programmes, child-friendly shelters and an effective identification system. According to an annual court case analysis, trafficking cases were not effectively prosecuted and victims were exposed to secondary victimisation and rarely compensated.

The Committee notes that the number of child victims of human trafficking provided by Serbia to the Committee and the numbers identified by other sources are contradictory.

### ***Protection against the misuse of information technologies***

The Committee has previously asked that the next report provide information whether legislation or codes of conduct for internet service providers contained an obligation to remove or prevent accessibility to illegal material of which they were aware (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 upon receipt of evidence of unsolicited and harmful messages, the operator is obliged to warn the subscriber or temporarily prevent them from using the service.

In reply to the targeted question, the report states that the National Contact Centre for the Safety of Children on the Internet was established, which provides advice regarding safety of children on the Internet, and forwards reports about harmful, inappropriate or illegal content and behaviour on the Internet. All citizens of the Republic of Serbia can call the free and anonymous number 19833 to report any suspicion of digital violence or danger to the integrity and safety of children and young people under the age of 18. The National Contact Centre also receives reports of digital violence through the website [www.pametnoibezbedno.rs](http://www.pametnoibezbedno.rs), which is updated daily.

The report also describes measures taken in educational institutions related to the prevention of violence, exploitation and abuse in the digital environment.

### ***Protection from other forms of exploitation***

The Committee has previously asked for information on the implementation of the Strategy and Plan for the Protection of Children against Violence and their impact on protecting children against exploitation. It also asked for information on the measures adopted to identify and assist child victims of trafficking. It also asked for information on the Road Map and on any measures taken to protect and assist children in vulnerable situations, with particular attention to children in street situations and children at risk of child labour, including those in rural areas (Conclusions 2019).

The report states that the Strategy for the Prevention and Protection of Children from Violence 2020-2023 provides that all children in Serbia have to grow in a safe and supportive environment. The implementation of the previous strategy and plan led to the following results: strengthening the role of the Council for the Rights of the Child, strengthening cross-sectoral cooperation, improving the efficiency of the monitoring system, improving the local protection system, continuing awareness-raising work, improving the skills of employees in institutions dealing with children, supporting families in the development of parental skills, developing prevention, direct support and protection services for children from vulnerable groups and others.

The report further states that the Regulation on Determining Hazardous Work for Children was adopted and its implementation began in 2018.

The report states that in Serbia there are seven accredited providers of temporary accommodation services for children who live and work on the streets.

### ***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 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 the Centre for the Protection of Victims of Human Trafficking implemented the project “Mental health of victims of human trafficking during the Covid-19 pandemic”, and held workshops for victims of human trafficking in 10 cities in Serbia, produced documents for them and experts working with them, and ran two training sessions for 50 workers in the field of social protection.

### *Conclusion*

The Committee concludes that the situation in Serbia is in conformity with Article 7§10 of the Charter.



## **Article 8 - Right of employed women to protection of maternity**

### *Paragraph 1 - Maternity leave*

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

The Committee recalls that no targeted questions were asked in relation to Article 8§1 of the Charter, only a question in relation to Covid-19. 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, families and migrants").

The Committee previously (Conclusions 2019) deferred its conclusion pending receipt of information as to whether the right to maternity leave applied to all categories of employed women, in both the private and public sectors, and on specific statistical data on the percentage of women receiving less than 70% of their previous salary in maternity benefits, and whether the minimum rate of maternity benefits corresponds at least to the poverty line.

### ***Right to maternity leave***

The Committee previously asked whether the same rules on maternity leave applied to all categories of women employees, in both the private and public sectors (Conclusions 2019).

In response, the report states that the Labour Act, which provides for an employee's right to maternity and childcare leave, applies to all employees with an employment relationship, whether they are employed in the private or public sector. This means that all rules relating to maternity and childcare leave and the protection of pregnant women and mothers during such leave apply equally to all public and private sector employers. The Committee therefore considers, in the light of this information, that the situation complies with the Charter in this respect.

### ***Right to maternity benefits***

In its previous conclusion, the Committee requested statistical data on the percentage of women receiving less than 70% of their previous salary in maternity benefits, as well as on whether the minimum rate of maternity benefits corresponded at least to the poverty line. It also asked for confirmation that maternity benefits could not be lower than the minimum wage if the woman had worked for at least six months (Conclusions 2019).

In response, the report states that during maternity leave, although the amount is calculated on the basis of the average salary earned by the employee over the previous 12 months, for the months during which the employee was not employed, the minimum wage is taken as the basis for the calculation of the benefit. There is therefore no minimum employment requirement. During maternity leave, the amount of benefit is equal to 100% of the previous salary.

The Committee recalls that under Article 8§1, the level of income replacement benefits must be set so as to be reasonably proportionate to previous salary (they must be equal to previous salary or close to its value, and must not be less than 70% of the previous salary) and must never be less than 50% of median equivalent income (Statement of interpretation of Article 8§1, Conclusions 2015). If the benefit in question is between 40% and 50% of the median equivalised income, other benefits, including social assistance and housing, will be taken into account. On the other hand, if the level of the benefit is less than 40% of the median equivalised income, it is manifestly inadequate and its combination with other benefits cannot bring the situation into line with Article 8§1.

The Committee notes from Eurostat that 50% of the median equivalised income in 2022 stood at €2,255 per year or €188 per month. According to MISSCEO, maternity benefit cannot be

lower than the national minimum wage (RSD 45,471 (€387) gross in January 2022). Other forms of compensation exist and can be added. The maximum amount (for both forms of maternity benefit) is three times the national average wage. The benefit is transferred directly from the State budget to the recipient. In the light of this information, the Committee considers that the situation is in conformity with the Charter.

### ***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 to paid maternity leave.

The report states that during the Covid-19 period, the provisions of the Labour Act relating to maternity protection were not suspended and had no impact on the conditions for granting or the amount of maternity benefits.

### *Conclusion*

The Committee concludes that the situation in Serbia is in conformity with Article 8§1 of the Charter.

## **Article 8 - Right of employed women to protection of maternity**

### *Paragraph 2 - Illegality of dismissal during maternity leave*

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

The Committee recalls that no targeted questions were asked in relation to Article 8§2 of the Charter, only a question in relation to Covid-19. 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, families and migrants”).

In its previous conclusion (Conclusions 2019), the Committee deferred its conclusion pending receipt of information on compensation available in the event of unlawful dismissal during maternity.

### ***Prohibition on dismissal***

The Committee previously asked whether the rules regarding the prohibition on dismissal applied to all employed women in both the private and public sector (Conclusions 2019).

The report confirms that the rules apply to women employed in both the private and public sector.

### ***Compensation for unlawful dismissal***

The Committee previously noted (Conclusions 2019) that there was a ceiling on the compensation that may be awarded in the event of unlawful dismissal. It recalled that compensation for unlawful dismissal must be both proportionate to the loss suffered by the victim and sufficiently dissuasive for employers. Any ceiling on compensation that may preclude damages from being commensurate with the loss suffered and sufficiently dissuasive are proscribed. If there is such a ceiling on compensation for pecuniary damage, the victim must be able to seek compensation for non-pecuniary damage through other legal avenues (e.g. anti-discrimination legislation), and the courts competent for awarding compensation for pecuniary and non-pecuniary damage must decide within a reasonable time (Conclusions 2011, Statement of interpretation of Article 8§2).

It asked for examples of compensation awarded in cases of unlawful dismissal of employees who were pregnant or on maternity leave (Conclusions 2019). The report provides no information on this issue nor on whether compensation for non pecuniary damage may be awarded without limit.

Due to the failure to provide the information requested, the Committee concludes that the situation in Serbia is not in conformity with Article 8§2 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter.

### ***Covid 19***

The Committee asked whether the Covid-19 crisis had had an impact on the possibility of dismissing employees who are pregnant or on maternity leave; it also asked whether there have been any exceptions to the ban on dismissal.

According to the report the crisis caused by Covid-19, had no impact on the protection against dismissal during maternity.

### ***Conclusion***

Due to the failure to provide the information listed below, the Committee concludes that the situation in Serbia is not in conformity with Article 8§2 of the Charter. The Committee considers

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

Information missing:

- Whether in cases of unlawful dismissal on grounds of maternity compensation may be awarded for non pecuniary damage.

**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 Serbia.

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, families and migrants”).

As the previous conclusion found the situation in Serbia to be in conformity with the Charter (Conclusions 2019), there was no examination of the situation in 2023.

Therefore, the Committee reiterates its previous conclusion.

*Conclusion*

The Committee concludes that the situation in Serbia 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 Serbia.

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 deferred its conclusion (Conclusions 2019) pending receipt of confirmation that a woman obliged to take paid leave retained the right to return to their previous employment at the end of the protected period. The assessment of the Committee will therefore concern the information provided by the Government in response to the questions previously posed and 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.

According to the report pregnant women, women who have recently given birth or are breastfeeding may not perform work at night if such work would be harmful to her health or that of her child. The Labour Code provides that in such cases the employer is obliged to transfer the woman to day time work. The report further states that no loss of salary result from any change in working conditions or alternative employment. If transfer to alternative employment is not possible the woman is entitled to paid leave. The report confirms that at the end of the protected period women who had to take leave due to the risks posed by their employment are entitled to return to their previous post.

However the report does not provide information as to whether the pay the women receive when on leave is equivalent to their previous salary. Due to the failure to provide the requested information, the Committee concludes that the situation in Serbia is not in conformity with Article 8§4 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia 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 Serbia is not in conformity with Article 8§4 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter;

Information missing:

- whether pregnant women, women who have recently given birth or are breastfeeding obliged to take leave due to the risks posed by night work are entitled to receive 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 Serbia.

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 grounds that that it had not been established that there were adequate regulations on dangerous, unhealthy and arduous work in respect of pregnant women, women who have recently given birth or women who are nursing their infant , in particular it asked whether the women concerned could be temporarily transferred to another post or, if no transfer was possible, whether they were entitled to paid leave. It asked what rules applied as regards their level of pay and whether they retained the right to return to their previous position at the end of the protected period (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the previous conclusion of 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 give birth or are breastfeeding in jobs which are harmful to her or her child. If a risk assessment identifies risks to the health of the woman and or child, the employer shall transfer the woman concerned to alternative employment while maintaining her previous salary. If alternative employment is not possible the woman is entailed to take paid leave. However the report does not provide information as to whether the pay the women receives when on leave is equivalent to her previous salary.

Due to the failure to provide the requested information, the Committee concludes that the situation in Serbia is not in conformity with Article 8§5 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter.

The report confirms that at the end of the protected period women who had to take leave due to the risks posed by their employment are entitled to return to their previous post.

### *Conclusion*

Due to the failure to provide the information listed below the Committee concludes that the situation in Serbia is not in conformity with Article 8§5 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter;

Information missing:

- whether pregnant women, women who have recently given birth or are breastfeeding obliged to take leave due to the risks posed by their employment are entitled to receive 100% of their previous salary.

## **Article 16 - Right of the family to social, legal and economic protection**

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

The Committee points out that, in the context of the current examination cycle, it has asked States to respond to a number of targeted questions relating to Article 16 of the Charter, as well as, where appropriate, to previous conclusions of non-conformity, postponement or conformity pending information (see the appendix to the letter by which the Committee requested a report on the implementation of the Charter with regard to the provisions of the "Children, Families and Migrants" thematic group).

The Committee deferred its previous conclusion pending receipt of the information requested regarding mediation services, domestic violence against women and housing for families (Conclusions 2019).

The Committee's assessment will therefore relate to the information provided in the report in response to the deferral, and to the targeted questions.

### ***Legal protection of families***

#### ***Rights and obligations, dispute settlement***

- **Rights and obligations of spouses**

In its previous conclusions (Conclusions 2019 and 2015), the Committee asked for information relating to rights and obligations within the couple.

Due to the failure to provide requested information, the Committee concludes that the situation in Serbia is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter.

- **Settlement of disputes**

In its previous conclusions (Conclusions 2019 and 2015), the Committee asked for information on the settlement of disputes between spouses (divorce).

In response, the report states that the division of the joint property of spouses is always carried out by court order and can take place both during the marriage and after it has ended (in the event of divorce). The division of the spouses' joint property consists in determining the share of the joint property or of each spouse's assets in the joint property. The spouses, the heirs of a deceased spouse or the creditors of a spouse whose own property has not been sufficient to pay the claim, have the right to apply for partition of the spouses' joint property. The report specifies that the division of joint property may be made on the basis of a joint property division agreement, drawn up by the spouses in the form of a notarial deed. During the divorce proceedings, the court renders a verdict based on the agreement drawn up between the spouses. If the spouses are unable to agree on the division of property, the court will decide. Family law assumes that the spouses' shares in the joint property are equal, but each spouse may refute this assumption.

The Committee notes that, in calculating each spouse's share, the court considers various factors, including each spouse's income and earnings, as well as each spouse's contribution to the home, child-rearing and other tasks, and co-operation in the management, maintenance and growth of marital property. The Committee takes note of the details of the division of property as set out in the report.

- **Mediation services**

In its previous conclusion (Conclusions 2019), the Committee asked whether families could use mediation to resolve their disputes (access to a mediator in the event of a dispute, cost of the procedure and how it works in practice). In the meantime, the Committee reserved its position on this point.



In response, the report states that the mediation procedure is regulated in detail by the Mediation Act 2014. The Ministry of Justice maintains a register of all accredited mediators. In accordance with Article 4 of the Rulebook on the Organisation, Norms and Operational Standards of Social Work Centres, such a centre must also implement the mediation procedure in family relations (reconciliation and settlement of the dispute).

Due to the failure to provide requested information on access to a mediator in the event of a dispute or on the cost of the procedure, the Committee concludes that the situation in Serbia is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter.

### ***Domestic violence against women***

The Committee notes firstly that Serbia has ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), which entered into force in Serbia in August 2014.

In its previous conclusion (Conclusions 2019), the Committee requested comprehensive and updated information on measures taken to ensure the prevention of domestic violence against women, including relevant statistics and examples of case law, in the light of the observations and recommendations of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) and Committee on the Elimination of Discrimination against Women (CEDAW). In the meantime, it reserved its position on this point.

In addition, in a targeted question, the Committee requested updated information on measures taken to reduce all forms of domestic violence against women, including information on incidence and conviction rates.

In response, the report states that the National Strategy for Preventing and Combating Gender-based Violence against Women and Domestic Violence 2021-2025 was adopted in 2021. This strategy is aligned with the Istanbul Convention and sets 4 specific objectives (to improve activities in the field of prevention, to ensure the protection of victims, to criminalise all forms of violence against women and to implement integrated public policies and a data collection system) and 15 measures to achieve the general strategic objective of effectively preventing and protecting against all forms of violence against women and domestic violence, and to put in place a properly developed system of support services for victims of gender-based violence.

The report also states that social work centres are required to provide support and assistance to women and children who are at risk of domestic violence or other types of violence, abuse, neglect and exploitation. They also initiate court proceedings, provide advisory support and material and legal assistance. According to the report, there are 141 social work centres in Serbia, and seven approved service providers of shelters for victims of violence. Professionals from social welfare institutions regularly attend training courses to work with victims, including children, and perpetrators of domestic violence.

The Committee notes that, according to the report, the number of support services for victims of violence in Serbia is insufficient and their geographical distribution is inadequate. The report adds that the quality of the social services' response to individual cases of violence is affected by the lack of a sufficient number of employees and other resources, as well as by the large number of functions assumed and tasks performed by workers at social work centres.

The report also states that in 2018, a helpline was set up to support women victims of violence; it operates 24/7 across the country.

The Committee notes the start of the process of adopting a draft law amending the Family Act, which would introduce new forms of domestic violence (harassment, digital violence, etc.).

The Committee takes note of the statistics covering the period from January to December in 2021 and 2022, which show that the number of reported incidents relating to acts of domestic violence increased by 2.16%, and the number of emergency measures ordered by 7.35%. The number of criminal reports filed for acts of domestic violence fell by 2.35%, and the number of victims of domestic and intimate partner homicide fell by 9.76%.

Due to the failure to provide requested information on examples of case law in this area, the use of protection orders or the number of convictions handed down, the Committee concludes that the situation in Serbia is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter.

## ***Social and economic protection of families***

### ***Family counselling services***

In its previous conclusion (Conclusions 2019), the Committee requested that the next report contain updated information on the number and geographical coverage of centres offering family counselling services, including guidance on child-rearing.

Due to the failure to provide requested information, the Committee concludes that the situation in Serbia is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter.

### ***Childcare facilities***

In its previous conclusion (Conclusions 2019), the Committee asked whether, where the parental co-financing obligation is applicable, there are rules on the threshold/maximum amount of the parents' financial contribution to ensure that childcare facilities remain accessible to them.

The report states that if there are not enough places for all children in pre-school childcare facilities, a system of co-financing the integration of children into pre-school education and training is introduced, with parents paying the full cost of a private pre-school childcare facility, and the municipality or city reimbursing parents 80% of the economic cost.

### ***Family benefits***

#### ***Equal access to family benefits***

In a targeted question, the Committee asked whether a condition of length of residence was imposed on nationals of other States parties legally residing in the country in order to be entitled to family benefits.

The report states that the legislation does not impose such a condition.

#### ***Level of family benefits***

In its previous conclusion (Conclusions 2019), the Committee noted that eligibility for child benefit was income-dependent and asked what percentage of families received the benefit.

In addition, among the targeted questions it asked, the Committee requested information on the amounts paid in family benefits as well as the adjusted median income for the reference period. It also asked whether family or child benefits were means-tested and, if so, what percentage of families were covered.

The Committee points out that family benefit must be such as to provide a significant number of families with sufficient extra income. Adequacy is assessed with respect to the monthly median equivalised net income as calculated by Eurostat.

The Committee notes from Eurostat data (published on 17 March 2023) that the median equivalised income stood at €344 in 2021.

In response, the report indicates that in October 2022 (outside the reference period), 109,328 people received child benefit. Due to the failure to provide requested information on the percentage of families covered, the Committee concludes that the situation in Serbia is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter.

The Committee notes in MISSCEO that the amounts paid are as follows:

- 3,084 RSD per month per child (€26) up to a maximum of four children per family;
- 4,010 RSD per child (€34) if the child is being brought up by a guardian, an adoptive parent or a single parent.

With regard to the adequacy of the amount, the Committee notes that the child benefit corresponds to 7.6% of the median equivalised income. It therefore considers that it represents a significant income supplement.

### ***Measures in favour of vulnerable families***

In its previous conclusion (Conclusions 2019), the Committee asked what measures were being taken to help single-parent families.

The report states that the Government supports single-parent families by increasing the income ceiling [MOU1] (the income limit not to be exceeded to receive social assistance) by 20% or 30% depending on whether the other parent is deceased, unknown or unable to earn a living. The ceiling is also increased by 20% for guardians and parents of a child with developmental disabilities who is not placed in an institution. The ceiling is updated every six months on the basis of the consumer price index. The Government also allocates a higher amount to single-parent families and guardians under the family allowance, which is 30% higher than the normal amount. Parents of a disabled child receive a 50% supplement to child benefit. However, the maximum increase in child benefit is 80%.

Among the targeted questions that it raised, the Committee asked what measures had been taken to ensure that vulnerable families could meet their energy needs, in order to ensure their right to adequate housing (which includes access to essential services).

The report states that a new Decree adopted in 2022 (outside the reference period) defines the categories of energy vulnerable consumers eligible for a reduction in their monthly electricity, natural gas and thermal energy bills. The Government has allocated more funds for this purpose and improved the criteria to include more households. The decree also covers recipients of social assistance and family allowances, households on a minimum income, households with medical equipment requiring electricity and rural households. Previous non-payment of energy bills does not prevent consumers from acquiring the status of energy vulnerable consumers. As a result, the number of households benefiting from reduced bills has risen from 68,000 to 191,000.

In a targeted question, the Committee asked whether, in cases where specific temporary measures had been taken to financially support families during the covid-19 pandemic, they would or were expected to be maintained or withdrawn and, if they had been withdrawn, what effect this was expected to have on vulnerable families.

The report adds that the Government implemented various measures to help vulnerable families during the Covid-19 pandemic. Entitlements to social benefits were extended and humanitarian assistance was provided to beneficiaries whose entitlements had been cut off

during the first wave of the crisis. A cooperation agreement was signed with the Red Cross of Serbia to ensure the distribution of food parcels and hygiene products, meals in soup kitchens and seaside recovery programmes for families and children in need in 2020, 2021 and 2022. Universal financial aid was paid on several occasions to all adult citizens, as well as to young people who had applied for it. Support was also provided to facilities for the acquisition of technical equipment and training in digital skills.

### ***Housing for families***

In its previous conclusion (Conclusions 2019), the Committee requested that the next report provide more detailed information on eviction procedures and the remedies available (of a judicial nature) and specify whether the existing legal framework provides for:

- the obligation to consult the persons concerned in order to find alternatives to eviction;
- the obligation to rehouse or provide financial assistance to the persons concerned, where the public interest justifies eviction;
- the obligation to give reasonable notice before the date of eviction (and the length of notice applicable);
- access to legal assistance;
- compensation in the event of illegal eviction;
- a ban on evictions at night or during the winter.

Should the requested information not appear in the next report, the Committee concluded that it would not be possible to establish that the situation is in conformity with the Charter on this point.

The report indicates that the Government has adopted the Housing and Building Maintenance Act, which prescribes the conditions and procedure for protection in the event of forced eviction for persons who have no right to the residential building they occupy, nor over the land on which the building was constructed (a completely illegal status). It has also adopted a number of laws and regulations in line with international human rights treaties, relating to appropriate housing and protection in the event of forced eviction. The Ministry of Construction, Transport and Infrastructure has drawn up manuals and guidelines on the procedures to be followed by the competent authorities when rehousing persons evicted from informal settlements, emphasising the role and obligations of local authorities. The competent public authority ensures that evicted persons are provided with suitable alternative accommodation. The City of Belgrade consults with the persons to be relocated before their resettlement and obtains their prior, full and informed consent to the relocation. In addition, the City of Belgrade compensates those evicted for the loss, collection and transportation of their property as a result of the eviction. The local self-government body responsible for property-related legal issues sets a reasonable period of notice prior to eviction, which is published in the official gazette.

Due to the failure to provide requested information on available remedies, the existing legal framework to ensure access to legal aid for evicted persons, and the prohibition of evictions at night or in winter, the Committee concludes that the situation in Serbia is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter.

In its previous conclusion (Conclusions 2019), the Committee noted that the United Nations (UN) Committee on Economic, Social and Cultural Rights, in its Concluding Observations on the second periodic report of Serbia (adopted on 23 May 2014, § 31), expressed concern about the low number of social housing units built each year for low-income families. The Committee therefore requested that the next report contain detailed figures on the overall availability of social housing (demand and supply) and provide information on the implementation of the new housing strategy for the next reporting period. In the meantime, it reserved its position on this issue.

In addition, in a targeted question, the Committee asked States that had not accepted Article 31 of the Charter to provide updated information on the availability of adequate and affordable housing for families.

The report states that there is an imbalance in the distribution of the housing stock, with almost 20% of flats uninhabited and at least 350,000 households looking for accommodation. It also recognises that solving the accumulated problems in housing sector is very demanding both financially and in terms of time, and that it is not possible to resolve them completely within the 10 years of implementation of the new housing strategy, adopted in 2022. It therefore defines specific objectives and measures that are realistic and achievable within the planned period.

In the light of the above, the Committee considers that the situation is not in conformity with the Charter, on the ground that the right to housing is not adequately and effectively guaranteed for low-income families.

In its previous conclusion (Conclusions 2019), the Committee noted that other human rights bodies had expressed concern about the housing conditions of Roma families in informal settlements and deplored that forced evictions had taken place without consultation and procedural safeguards. The Committee therefore asked that the next report continue to provide information on the measures taken to improve the housing conditions of Roma families, on the results of the Action Plan of the National Strategy for the Social Inclusion of Roma (2016-2025) during the next reporting period and on the procedural safeguards applied to eviction operations carried out in settlements. It also asked for statistics on the number of informal settlements, forced evictions and social housing for Roma. In the meantime, it reserved its position on this point.

The report states that the Government has implemented various actions aimed at improving the housing conditions of Roma families, such as: strengthening the capacities of local government units (LGUs) for the inclusion of Roma; preparing planning and technical documentation for the spatial regulation of existing communities and new rehousing sites; providing housing solutions to Roma beneficiaries through the construction, renovation, purchase and reconstruction of dwellings; support for the legalisation of residential buildings in existing Roma communities and the resolution of legal problems related to ownership; the acquisition of flats for vulnerable categories of the population, including a large number of Roma households, through the project "EU Support for Social Housing and Active Inclusion".

Furthermore, the report states that the Government of Serbia continues to work towards the implementation of the National Strategy for Social Inclusion of Roma (2016-2025) and the Action Plan for its implementation, and to provide information on the achievements and results of these measures. However, the report does not provide data or evidence demonstrating the progress and impact of the Roma Social Inclusion Action Plan in various areas. Nor does the report specify the procedural safeguards applied to community evictions, or statistics on the number of informal communities, forced evictions and social housing available to Roma.

Due to the failure to provide requested information, the Committee concludes that the situation in Serbia is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter.

With regard to internally displaced persons, the Committee had previously (Conclusions 2015) requested information on the outcome of a programme to find sustainable housing solutions for families living in collective centres. In the 2016 report of the UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, the Committee noted that in 2015, there were still 10 collective centres in Serbia, housing 722 people. The Committee therefore requested in its previous conclusion (Conclusions 2019) that the next report provide information on these centres and the housing conditions of the families living there.

The report states that the Government is hosting 196,140 displaced persons. It has also adopted a strategy to resolve the issue of refugees and internally displaced persons (IDPs), which has resulted in the closure of most collective centres and the provision of adequate housing solutions for IDPs residing there. According to the report, only one collective centre remains, which houses 69 people, located in the municipality of Bujanovac. The government plans to close the centre in the near future and rehouse these people in flats.

In its previous conclusion (Conclusions 2019), the Committee noted that several international and Council of Europe bodies had expressed concern about the inadequate reception capacity for refugees and asylum-seekers from outside the Balkans arriving in or transiting through Serbia, particularly during the refugee crisis (UN Committee on Economic, Social and Cultural Rights, *ibid*, § 14; UN Human Rights Committee, Concluding observations on the third periodic report of Serbia, 23 March 2017, § 32; Special Representative of the Secretary General of the Council of Europe on Migration and Refugees, Report on fact-finding visit to Serbia and two transit zones in Hungary, 12-16 June 2017). In this regard, it also referred to its Statement of Interpretation on the rights of refugees under the Charter (Conclusions 2015). It requested that the next report provide information about the accommodation conditions of refugee families and their housing situation.

The report mentions the measures taken by the Government to provide assistance and protection to migrants and asylum seekers crossing its territory, regardless of their migratory status. The Office of the Commissioner for Refugees and Migration (CRM) has set up reception and care services that include accommodation, medical care, education, distribution of food, medicines and information on the asylum procedure. According to the report, the CRM runs 7 asylum centres and 12 reception centres throughout the country, with a total accommodation capacity of 6,000 places, which can be increased by a further 30% if necessary. People who have been granted asylum can be accommodated for up to one year and receive financial assistance up to the minimum wage, depending on their income per family member.

### ***Participation of associations representing families***

In its previous conclusion (Conclusions 2019), the Committee asked that the next report include concrete examples of consultations with associations representing families.

The report provides an overview of the process and results of four strategic documents aimed at improving the social protection system and promoting equality between men and women in Serbia:

- Strategy for deinstitutionalisation and development of community-based social protection services 2022-2026;
- The action plan for the implementation of the deinstitutionalisation strategy and the development of local social protection services 2022-2026;
- The Law on the Rights of Users of Temporary Accommodation Services in Social Protection
- The strategy to prevent and combat gender-based violence against women and domestic violence 2021-2025.

These documents aim to transform the social protection system and guarantee the rights and dignity of all users, in particular women and girls facing violence and discrimination. The report emphasises that these documents were drawn up as part of a participatory and consultative process, involving several organisations and institutions from different sectors and levels.

### ***Conclusion***

The Committee concludes that the situation in Serbia is not in conformity with Article 16 of the Charter on the ground that :

- the right to housing is not adequately and effectively guaranteed for low-income families.

Due to the failure to provide the information listed below, the Committee concludes that the situation in Serbia is not in conformity with Article 16 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter.

Information missing:

- rights and obligations within the couple;
- access to a mediator in the event of a dispute and the cost of the procedure;
- examples of case law on domestic violence against women, the use of protection orders and the number of convictions;
- the number and geographical coverage of centres offering family counselling services, including guidance on raising children;
- the percentage of families receiving child benefit;
- the remedies available (judicial remedies), and access to legal aid for evicted persons;
- the ban on evictions at night or in winter;
- the results of the action plan of the national strategy for the social inclusion of the Roma (2016-2025), the procedural guarantees applied to community evictions, or statistics relating to the number of informal communities, forced evictions and social housing available for the Roma.

## **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 Serbia.

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 Serbia 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, 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, at the end of 2020, an Instruction was issued on registering the birth of a child whose parents do not have personal documents. The instruction is based on the best interests of the child, urgency and mutual cooperation. In addition, 99% of children under the age of five from Roma settlements were recorded in the birth register.

The report further states that Serbia pays special attention to the principles aimed at preventing and reducing statelessness. Not only is it ruled out for a person to remain stateless, but it is also possible to have multiple citizenships. A person cannot lose Serbian citizenship if this would render them stateless.

### ***Protection from ill-treatment and abuse***

The Committee has previously concluded that the situation in Serbia 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. The Committee asked to be kept informed of all developments in this area, as well as with regard to the prohibition of corporal punishment of children in institutions (Conclusions 2019).

The report states that a draft law amending Family Law is being prepared. The Committee notes from other sources (UN Human Rights Council Working Group on the Universal Periodic Review, forty-third session, 1-12 May 2023) that legislation to prohibit corporal punishment in the home has not yet been passed and the high prevalence of violence against children



remains a major concern. The Committee therefore reiterates its conclusion of non-conformity on the ground that not all forms of corporal punishment are prohibited in all settings.

### ***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 recent years, the share of children in poverty slightly decreased but financial social assistance to the poor is still relatively low. Ensuring the minimum financial security of the family is carried out through cash benefits, child allowance and a number of other measures. Various local benefits contribute to ensuring the standard of living of vulnerable population groups.

The report further states that the principle of non-discrimination is consistently applied in all areas, including social services. Several rulebooks on the identification of discrimination are used by institutions. The “Get to know, don’t judge” project was implemented in 2020-2022, and focused on the promotion of non-discrimination against Roma among young people.

The report states that children’s participation is one of the leading principles that guide the State and its bodies when deciding on children’s rights. Children participate in the sessions of the Serbia’s Council for the Rights of the Child, and their views and observations are taken into account when making decisions and conclusions.

The Committee notes from EUROSTAT that in 2021, 27.5% of children in Serbia were at risk of poverty or social exclusion, a significant decrease in comparison with 2018, when the percentage was 35.9%. However, the poverty rate remains high compared to the EU average of 24.4% and the Committee concludes that the situation in Serbia is not in conformity with Article 17§1 of the Charter on the ground that the rate of children at risk of poverty is too high.

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 has previously asked for further information on the content of guidelines for social work centres and residential care institutions for the care and placement of unaccompanied migrant children. In addition, it asked what measures had been taken to improve the guardianship system and to ensure that accommodation facilities for children in an irregular migration situation, whether accompanied or unaccompanied, were safe, appropriate and adequately monitored. It also requested information as to whether children in an irregular migration situation, whether or not accompanied by their parents, could be detained and, if so, under what circumstances. It further asked whether children in an irregular migration situation had access to healthcare. Finally, it asked whether Serbia used bone testing to assess age; if so, in what situations, and 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.

The report states that three organisational units for the temporary accommodation of unaccompanied foreign minors were opened, with a total capacity of 40 places. Moreover, since the beginning of the migrant crisis, the Serbian social protection system provided accommodation to more than 1,000 minors.

The report further states that all children have the right to free and equal access to all healthcare services.

The report states that unaccompanied minors are accommodated in special facilities and separated from adult residents. In these facilities, the presence of a social action centre is mandatory. The competent centres for social action – guardianship authorities – decide on the appointment of guardians. Between 2017 and 2022, guardianship authorities had 8,150 unaccompanied children under their care, while around 1,000 particularly vulnerable children were housed in social protection institutions or NGO shelters.

The report states that there is no regulation governing the age assessment procedure, including the use of bone testing, and the current basis for age assessment is the statement of a person being assessed.

In reply to the targeted question, the report states that respecting children's rights in emergency situations is of particular importance. The report mentions draft amendments to the Law on Social Protection, which will enable the social protection system to react in cases of crisis.

Due to the failure to provide information on whether children in an irregular migration situation, accompanied by their parents or not, could be detained, and, if so, under what circumstances, the Committee concludes that the situation in Serbia 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 Serbia of their reporting obligations under Article C of the Charter.

### ***Rights of children in public care***

In its previous conclusion, the Committee asked for the Government's comments on the functioning of the family assistant project, as well as information on measures taken to support families and children at risk. It also asked to be provided with information on trends in public care and the deinstitutionalisation of children under the age of three and children with disabilities. It also requested information on the monitoring of care in institutions and other types of alternative care (Conclusions 2019).

The report states that the family assistant project due to a lack of financial resources. Guidelines for foster care were prepared and distributed, numerous activities have been undertaken to develop community-based services, such as: day care centres, assisted housing, help at home, child minders.

In addition, the report states that at the beginning of 2022, the 2022-2026 Strategy of Deinstitutionalisation and Development of Community-Based Social Protection Services was adopted.

The report further states that a child under the age of three shall not be placed in an institution. Currently, there are 600 children in Serbia in institutions and 5,000 in foster care. In 2019, one home for children without parental care was closed. The State is focusing on developing specialised foster care homes for children with disabilities.

### ***Children in conflict with the law***

The Committee has previously asked about the maximum length of pre-trial detention and about maximum prison sentences that could be imposed on a child, and whether children were always separated from adult prisoners. It considered that if this information was not provided in the next report, there would be nothing to establish that the situation in Serbia was in conformity with Article 17§1 of the Charter. The Committee also asked whether children could be placed in solitary confinement, if so, for how long and under what circumstances (Conclusions 2019).

The report states that the length of pre-trial detention of children is one month. It can be extended by a further month, with a maximum duration of six months. Children in detention are always separated from adults.

The report further states that children can be placed in juvenile prisons for the most serious crimes when it is not possible to impose educational and correctional measures. A child may be placed in a juvenile prison only if the sentence imposed for the criminal offence is more than five years. A prison sentence may not be shorter than six months and longer than five years. However, in the case of an offence for which a prison sentence of 20 years or more is called or in the case of at least two offences for which a prison sentence of 10 years or more each is called, a maximum sentence of 10 years may be imposed on a child.

The report further states that children cannot be placed in solitary confinement.

### ***Conclusion***

The Committee concludes that the situation in Serbia 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;
- the rate of children at risk of poverty is too high.

Due to the failure to provide the information listed below, the Committee concludes that the situation in Serbia 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 Serbia of their reporting obligations under Article C of the Charter.

List of questions/Information missing: on whether children in an irregular migration situation, accompanied by their parents or not, could be detained, and, if so, under what circumstances.

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

### *Paragraph 2 - Free primary and secondary education - regular attendance at school*

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 17§2 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§2 and asked States to provide, in the next report, information on measures taken to introduce anti-bullying policies in schools; and on measures taken to facilitate child participation across a broad range of decision-making and activities related to education.

Previously, the Committee deferred its conclusion (Conclusions 2019). The assessment of the Committee will therefore concern the information provided by the Government in response to the conclusion of deferral, the targeted questions and the general questions.

### ***Enrolment rates, absenteeism and drop out rates***

In the previous conclusion, the Committee requested information on enrolment and drop out rates, as well as information on measures taken to address issues related to these rates (Conclusions 2019).

The report states that the enrolment rate in primary education in 2021 was 93.45%, the rate of drop out of primary education was 0.44%. The enrolment rate in secondary education in 2021 was 86.8% and the drop out rate was 0.8%. The Committee notes from other sources (UNESCO database) that the enrolment rates in 2021 were as follows: 95.88% in primary education, 96.93% in lower secondary education and 85.29% in upper secondary education.

The report further states that an early identification and response system was established in order to combat school drop out, instructions were created for the prevention of early school leaving. In the last four years, 1,841 participants from 229 schools were trained to implement the model of early identification of students at risk and drop out prevention.

### ***Costs associated with education***

The Committee has previously asked for information on the proportion of children in primary school education who received free school books or other forms of financial assistance. It also asked for updated information on measures taken to mitigate the costs of education, such as transport, books, uniforms and stationery and considered that if this information was not provided in the next report, there would be nothing to establish that the situation in Serbia was in conformity with Article 17§2 of the Charter (Conclusions 2019). In the targeted questions, the Committee asked for information on measures taken to ensure that State allocation of resources to private education did not negatively impact on the right of all children to access free, quality public education.

The report states that free transport is available, free books are also provided to pupils from disadvantaged families and scholarships are available. In the 2022/2023 school year, 16.5% of children in primary education received free textbooks. The Committee notes that this information is outside the reference period for the purposes of the present reporting cycle.

In reply to the targeted question, the report states that funds used to finance the institutions' activities come from the budgets of Serbia, the autonomous provinces and local self-government units. Depending on the founder, an educational institution can either be public

or private. If there are not enough places in preschool institutions, co-financing in a private institution is as follows: the parents pay 20% of the price and the municipality or city funds the remaining 80%. No funds are provided from the budget of the Ministry of Education for the work of private educational institutions.

### ***Vulnerable groups***

The Committee notes that where the States have accepted Article 15§1 of the Charter, the right to education of children with disabilities is dealt with under that provision.

The Committee has previously asked for information on measures taken to ensure access to compulsory education – both primary and secondary – for children in asylum and reception centres. The Committee considered that if this information was not provided in the next report, there would be nothing to establish that the situation in Serbia was in conformity with Article 17§2 of the Charter. The Committee also asked for information on measures taken to give effect to recommendations following the report of the Equality Commissioner and the impact of those measures. It also wished to receive information on the enrolment and drop out rates for Roma children (particularly girls) as well as the number of children in special schools (Conclusions 2019).

The report states that, since the 2015/2016 school year, 97% to 98% of migrant children have been integrated into the education system. One of the measures taken to improve the education coverage of migrant children has been the translation of educational material into the native languages of migrant pupils. Another measure is the improvement of the learning of Serbian as a foreign language. Visits are made to reception centres in order to motivate migrants to enrol their children in school.

The report states that, with regard to the education of children placed in reception and asylum centres, all children attend mainstream schools. However, due to the short stay of migrants in Serbia (the average length of stay in Serbia in 2022 was less than one month), integration into secondary education is difficult.

The report further states that, according to 2019 data, 85.4% of Roma children are enrolled in primary school (49% boys and 51% girls). So far, a total of 16,278 pupils have been enrolled in secondary schools, 55% of whom are girls. The drop out rate was reduced by 7%. During the 2021/2022 school year, 14,325 children attended mainstream schools and 3,344 pupils attended special primary schools. 860 pupils were in classes for disabled pupils in regular schools, 2,320 pupils were in secondary schools for disabled pupils and 2,105 pupils were in special classes in secondary schools.

The Committee notes from another source (UN Human Rights Council Working Group on the Universal Periodic Review, forty-third session, 1-12 May 2023) that Serbia was urged to put an end to *de facto* segregation of Roma children in public schools and to ensure access to quality education for Roma children, including through anti-racism and human rights training for school staff, awareness-raising efforts targeting parents and an increase in the employment of Roma teachers. It also takes note of the recommendation to Serbia to take measures to avoid the so-called “white flight” from schools in which Roma are enrolled, in particular by developing effective mechanisms with a view to preventing the continuation of *de facto* segregation in schools. The Committee considers that the situation in Serbia is not in conformity with Article 17§2 of the Charter on the ground that Roma children are subject to segregation in public schools.

### ***The voice of children in education***

In the general questions, the Committee asked what measures have been taken by the State to facilitate child participation across a broad range of decision-making and activities related to education (including in the context of children’s specific learning environments).

The report states that involvement of students in decision-making is possible through the participation of students in the student parliament.

### ***Anti-bullying measures***

In the general questions, the Committee asked what measures have been taken to introduce anti-bullying policies in schools, i.e. measures relating to awareness raising, prevention and intervention.

The report states that violence and discrimination are prohibited in educational institutions. There are several rulebooks on the subject, which regulating the practices of educational institutions in the event of suspected or identified discriminatory behaviour at school. Moreover, mandatory training for teachers includes the creation of a tolerant and non-discriminatory environment. Between 2019 and 2021, a total of 315 training sessions were implemented in this area, attended by 8,608 teachers.

### ***Covid-19***

In the context of the Covid-19 crisis, the Committee asked the States Parties to provide information on measures taken to address the effects of the Covid-19 pandemic on the education of children (including in particular disabled children, Roma and Traveller children, children with health issues and other vulnerable children).

The Committee recalls that under Article 17§2 of the Charter equal access to education must be ensured for all children during the Covid-19 crisis. In this respect, particular attention should be paid to vulnerable groups such as children from minorities, children seeking asylum, refugee children, children with disabilities, children in hospital, children in care, pregnant teenagers, children deprived of their liberty (Statement on Covid-19 and social rights, 24 March 2021).

The report states that the Serbian education system successfully switched to distance learning in Serbian and eight languages of national minorities (7,077 educational programmes were recorded in those eight languages). The necessary equipment was provided to pupils who did not have access to the Internet and IT services, 550 IT devices were distributed to schools where Roma children were enrolled. A list of digital resources was compiled to support distance learning for children with disabilities.

The report further states that the “Keep smiling” campaign was aimed at providing psychosocial support to pupils and helping them overcome the stress caused by the pandemic.

### ***Conclusion***

The Committee concludes that the situation in Serbia is not in conformity with Article 17§2 of the Charter on the ground that Roma children are subject to segregation in public schools.

**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 Serbia.

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 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.

***Change in policy and the legal framework***

In its previous conclusion, the Committee asked that the next report provide up-to-date information on the framework for immigration and emigration, and any new or continued policy initiatives in so far as they affect migrant workers (Conclusions 2019).

The report indicates that the Law on the Employment of Foreigners, which was adopted in 2014, was amended three times in 2017, 2018, and 2019, with the aim of developing a more efficient procedure for issuing work permits. The report indicates that at the time of drafting, the fourth amendment of this Law is in process, aimed at further simplifying the procedure for employing foreigners in Serbia, which will provide for the complete digitization of the procedure for issuing work permits.

***Measures against misleading propaganda relating to emigration and immigration***

In its previous conclusion, the Committee noted that the report did not address its previous request for up-to-date information concerning the legal framework and practical policies undertaken to combat misleading propaganda concerning immigration and emigration (Conclusions 2019). It asked for a comprehensive description of any actions targeted against misleading propaganda, including legal and practical measures to tackle racism and xenophobia. Meanwhile, it reserved its position on this point (Conclusions 2019).

The report provides information on the measures taken in order to promote tolerance towards migrants such as joint workshops, exhibitions and other educational and cultural activities that bring together the local population and migrants.

The report also provides specific information with regard to the activities of the Centre for the Protection of Victims of Human Trafficking in this respect, such as training, awareness-raising activities, as well as carrying out field actions to migrant centres.

The report also mention that the Ministry of Labour, Employment, Veteran and Social Affairs participates in the work of suppressing negative narratives and propaganda against migration through the communications working group within the program "EU Support to Serbia for Migration Management", together with other relevant state bodies.

***Conclusion***

The Committee concludes that the situation in Serbia is in conformity with Article 19§1 of the Charter.

**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 Serbia.

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***

The Committee noted previously that social protection services may be provided in urgent situations at all hours, in order to secure safety in situations threatening to the life, health or development of beneficiaries. These services shall be provided by the social welfare centre and through mandatory cooperation with competent authorities and services (Conclusions 2015). It asked the next report to confirm that this assistance is available also to migrant workers (Conclusions 2019). The Committee also reiterated its request for comprehensive information on the access to healthcare for migrant workers and their families (Conclusions 2019).

The report indicates that under Article 6 of the Law on Social Protection, beneficiaries of social protection can be foreign citizens and stateless persons, in addition to citizens of Serbia, in accordance with the law and international agreements, which means that all assistance is fully available to migrant workers, under the same conditions as to domestic citizens.

***Conclusion***

The Committee concludes that the situation in Serbia is in conformity with Article 19§2 of the Charter.



**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 Serbia.

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, the Committee concluded that the situation in Serbia was not in conformity with Article 19§3 of the Charter on the ground that it had not been established that the cooperation between social services in emigration and immigration countries is sufficiently established and promoted (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 questions raised in its previous conclusion.

In its previous conclusion, in order to assess the situation under Article 19§3 of the Charter, the Committee asked for information on the following:

- the form and nature of contacts and information exchanges established by social services in emigration and immigration countries;
- measures taken to establish such contacts and to promote the cooperation between social services in other countries;
- international agreements or networks, and specific examples of cooperation (whether formal or informal) which exist between the social services of the country and other origin and destination countries;
- whether the cooperation extends beyond social security alone (for example in family matters);
- examples of cooperation at a local level and any instances where such cooperation has occurred.

The report indicates that there is cooperation between social protection institutions in Serbia and other countries, which takes place through the competent diplomatic and consular missions. Most often, communication takes place in connection with family reunification, searching for lost family members, voluntary return to the country of origin, etc.

The Committee takes note of the information provided in the report. However, this information is not sufficient to enable the Committee to assess the situation under Article 19§3 of the Charter. Due to the failure to provide the information requested on cooperation between social services of Serbia and other States, the Committee concludes that the situation in Serbia is not in conformity with Article 19§3 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of its 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 Serbia is not in conformity with Article 19§3 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter. List of information missing:

- the form and nature of contacts and information exchanges established by social services in emigration and immigration countries;
- measures taken to establish such contacts and to promote the cooperation between social services in other countries;

- international agreements or networks, and specific examples of cooperation (whether formal or informal) which exist between the social services of the country and other origin and destination countries;
- examples of cooperation at a local level and any instances where such cooperation has occurred.

**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 Serbia.

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 concluded that the situation in Serbia was not in conformity with Article 19§4 of the Charter on the ground that it had not been established that migrant workers benefit from access to housing on the equal footing with nationals.

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.

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

In its previous conclusion, the Committee asked whether migrant workers enjoy the benefits of collective bargaining on the same footing as nationals (Conclusions 2019). It also repeated its question concerning legal status of workers posted from abroad and what legal and practical measures were taken to ensure equal treatment in matters of trade union membership and collective bargaining (Conclusions 2019).

The report indicates that any employee can be a member of a trade union, and in that sense, there is no legal obstacle for a foreign citizen, who is employed in Serbia, to join a trade union and be a member.

***Accommodation***

The Committee had previously asked for information on how the right to accommodation of migrant workers and their families was ensured both in law and practice (Conclusions 2015). In its previous conclusion, the Committee noted that the report still did not provide any information on migrant workers’ access to accommodation and thus the Committee considered that it had not been demonstrated that the situation is in conformity in this respect (Conclusions 2019).

The report indicates that Article 82a of the Law on the Fundamentals of Property Relations stipulates that foreign natural persons and legal entities who carry out activities in our country can, under conditions of reciprocity, acquire ownership rights on properties that are necessary for them (paragraph 1), and foreign natural persons who do not carry out activities in Serbia may, under conditions of reciprocity, acquire the right of ownership of an apartment or a residential building, like other citizens of Serbia (paragraph 2).

The Committee notes from the report that foreigners may acquire property under certain conditions. It is not clear what “conditions of reciprocity” might entail. The Committee notes that the report does not provide information on access to migrant workers and their families to subsidised housing or housing aids.

The Committee recalls that there must be no legal or *de facto* restrictions on home-buying, access to subsidised housing or housing aids, such as loans or other allowances (Conclusions IV (1975), Norway and Conclusions III (1973), Italy).

Due to the failure to provide information on access of migrant workers and their families to subsidised housing or housing aids, such as loans or other allowances, the Committee

concludes that the situation in Serbia is not in conformity with Article 19§4 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter.

### ***Monitoring and judicial review***

The Committee asked previously (Conclusions 2015) what institutions were responsible for the monitoring of anti-discrimination legislation in relation to labour and employment. It requested relevant statistics concerning the activity of such institutions and asked for information concerning the measures undertaken to secure equality of treatment in practice. Furthermore, it asked whether complainants have access to a court system to enforce their rights.

In its previous conclusion, the Committee reiterated its questions and underlined that if the next report failed to provide the requested information, there would be nothing to demonstrate that the situation in Serbia is in conformity with Article 19§4 of the Charter on this point (Conclusions 2019).

The report provides detailed information on the activities carried out by the Commissioner for the Protection of Equality. The Commissioner is competent to receive and consider complaints alleging discrimination, give opinions and recommendations in specific cases on discrimination and impose measures established by law. The report indicates that the largest number of complaints that the Commissioner receives relate to the field of employment.

The Committee notes in the Country Report on Non-discrimination 2022 of the European network of legal experts in gender equality and non-discrimination that the Law on the Prohibition of Discrimination (LPD) sets out the procedure for initiating civil court cases in cases of discrimination, which can be initiated by anyone who claims to have suffered discriminatory treatment. The LPD provides that the proceedings must be conducted with urgency (Article 41(3)). Article 45 of the LPD shifts the burden of proof from the complainant to the respondent. Furthermore, Article 46 provides that a lawsuit may be initiated by the Commissioner for the Protection of Equality or by an organisation that is engaged in the protection of human rights or the rights of a certain group of people.

### ***Conclusion***

Due to the failure to provide the information listed below, the Committee concludes that the situation in Serbia is not in conformity with Article 19§4 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of their reporting obligations under Article C of the Charter. List of information missing:

- information on access of migrant workers and their families to subsidised housing or housing aids, such as loans or other allowances.

**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 Serbia.

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).

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.

The Committee has assessed the situation in its previous conclusion (Conclusions 2015) and found it to be in conformity with the requirements of the Charter. It noted, in particular, that the Law on Personal Income Tax did not discriminate between Serbians and nationals of any other country with regard to tax rates (Conclusions 2015).

In its previous conclusions, the Committee asked what other contributions or taxes apply, and whether nationals of other countries are subject to any differing obligations (Conclusions 2015 and Conclusions 2019).

The report provides information on the types of personal income which are subject to taxation under the Law on Citizens' Income Tax (“LCIT”) and contributions according to the Law on Contributions for Compulsory Social Insurance (“LCCSI”). The report confirms that the provisions of both laws which determine the subject of taxation, the tax and contribution bases and the tax and contribution rates, etc. are the same for all natural persons - income recipients, independent of the fact that those natural persons are the citizens of Serbia or foreigners, i.e. citizens of other countries.

*Conclusion*

The Committee concludes that the situation in Serbia 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 Serbia.

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 report 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 concluded that the situation in Serbia was not in conformity with Article 19§6 on the grounds that it had not been established that:

- a family member of a migrant worker may not be denied entry to Serbia for the purpose of family reunion for health reasons;
- the level of means required to bring in the family or certain family members is not so restrictive as to prevent any family reunion;
- the restrictions on the exercise of the right to family reunion are subject to an effective mechanism of appeal or review.

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

***Conditions governing family reunion***

In its previous conclusion (Conclusions 2019), the Committee took note that the Law on Foreigners authorised the refusal of entry or cancellation of a visa where the entrant did not have a certificate of vaccination or other proof of good health, when arriving from areas affected by an epidemic of infectious diseases. In the absence of an answer to its previous question (Conclusions 2015) as to which diseases might lead to refusal of entry for a family member pursuant to these provisions, the Committee considered that it had not been demonstrated that the situation was in conformity with the Charter on this point.

In reply, the report indicates that in accordance with Article 15(1)5 of the Law on Foreigners, the border police can refuse a foreigner entry into the Republic of Serbia if the foreigner comes from an area affected by an epidemic of infectious diseases and does not have a vaccination certificate or other proof that they are not infected. This only applies to diseases that may threaten public health. According to the report, this possibility is applied restrictively in each specific case, upon recommendation or decision of the Ministry of Health, which determines the area affected by an epidemic of infectious diseases.

The Committee understands on the basis of the information provided in the report that the refusal on health grounds is justified under the domestic provisions in the case of serious illnesses which might endanger public health, and the authorities establish on a case-by-case basis, that the illness constitutes a threat to public order or security. The Committee therefore concludes that the situation is in conformity with Article 19§6 of the Charter on this point.

As to the means requirement for a family reunion, in the previous conclusion (Conclusions 2019), in the absence of an answer to its previous question (Conclusions 2015) as to what threshold was required to demonstrate that the sponsoring person could bring in the family or certain family members and whether the income derived from social benefits could be taken into account, the Committee considered that it had not been demonstrated that the level of means required to bring in the family or certain family members is not so restrictive as to prevent any family reunion.

In reply, the report indicates that the issue of the means required for family reunion is regulated by a regulation, the Rulebook on conditions for the approval of temporary residence. On the basis of Article 4 of the Rulebook, it is sufficient for the foreigner who submitted the request for approval, or extension of temporary stay, to provide a certified guarantee that they will bear the costs during the stay for a family member or a person who is considered a family member. According to the report, in accordance with the provisions of the Rulebook, proof that a foreigner has the means to support their family is considered to be: 1) confirmation of the amount of salary, 2) employment contract, service contract or other contract proving work engagement of a foreigner in accordance with labour regulations, 3) proof of payments for pension insurance, 4) proof of scholarship, 5) proof of registration in the Register of Agricultural Farms, 6) proof or statement of possession of funds in a bank account that is registered in Serbia at level of the minimum wage in the Republic of Serbia. The report states that, on this basis, the lower limit of funds for realizing the right to temporary residence in the Republic of Serbia is the minimum wage in the Republic of Serbia.

Nevertheless, the report does not provide an answer to the Committee's previous specific question as to whether social benefits are taken into account in the calculation of necessary financial means. The Committee notes from the information provided in the report concerning the provisions of the Rulebook, that social benefits are not listed among the proof that a foreigner has the means to support their family. Therefore, the Committee concludes that the situation is not in conformity with Article 19§6 in this respect.

In the previous conclusion (Conclusions 2019), the Committee recalled that in Conclusions 2015, it considered that the situation in Serbia was not in conformity with the Charter on the ground that family members of a migrant worker are not granted an independent right to stay after exercising their right to family reunion. The Committee took note that in 2016 a new law had been adopted affecting the rights of family members of a migrant worker and that the new law granted an independent right of residence also to family members of a migrant worker. It therefore asked the next report to confirm that the new provisions comply with the requirements of the Charter and to provide more detailed information in this respect.

The report indicates that the draft law on Foreigners is currently under public debate and the adoption is expected to take place in the second quarter of 2023 (outside the reference period). The report further indicates that the provisions of the Law in force during the reference period provide for the possibility of granting independent residence to a foreigner who has resided continuously for the last four years on the basis of family reunion, and who meets the general conditions for temporary residence. According to the report, in the event that the sponsor has passed away, independent residence for their family member may be granted at their request after three years of continuous stay on a temporary residence. The report further indicates that independent residence may be granted even if the general conditions are not met if the foreigner concerned is a victim of domestic violence.

The Committee recalls that once a migrant worker's family members have exercised their right to family reunion and have joined them in the territory of a state party, they have, under the Charter, an independent right to stay in the territory (see, Conclusions XII-1 (2002), the Netherlands; Conclusions XX-4(2015) Germany). The Committee considers that the legal requirement for the family member to have resided in Serbia continuously for the last four years in order to obtain an independent right to stay is not in conformity with Article 19§6 of the Charter. The Committee concludes that the situation is not in conformity with Article 19§6 on the ground that family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion.

In the previous conclusion (Conclusions 2019), the Committee, in the absence of any relevant information in the previous report, concluded that it had not been established that the restrictions on the exercise of the right to family reunion were subject to an effective mechanism of appeal or review. In reply, the report indicates that in accordance with the Law on Foreigners, against the decision on the rejection of the request for approval, or the

extension of temporary stay, the foreigner can file an appeal within 15 days from the date of receipt of the decision, which is decided upon by the Ministry of Interior, and which postpones the execution of the decision. An administrative dispute may be initiated before the competent court against the decision made in the second-instance procedure.

### *Conclusion*

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

- social benefits are not included in the calculation of the level of means required to bring in the family or certain family members;
- family members of a migrant worker are not granted an independent right to remain after exercising their right to family reunion.



**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 Serbia.

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 conclusion (Conclusions 2019), the Committee found the situation in Serbia not to be in conformity with Article 19§7 of the Charter on the ground that it had not been established that equal treatment in respect of the right to legal aid is guaranteed to migrant workers. In the present conclusion, the assessment of the Committee will therefore concern the information provided in reply to the previous conclusion of non-conformity.

In reply, the report indicates that according to the provisions of the Law on Free Legal Aid, free legal aid can only be provided by a provider who is registered in the Register of providers of free legal aid and free legal support. Under Article 9 of this Law, free legal assistance shall be provided by legal professionals and by legal assistance services in local self-government units. The Committee also notes that according to Article 39 of the Law on Free Legal Aid, the free legal assistance provided by the legal assistance service in the local self-government unit shall be financed from the budget of the local self-government unit. Under the same provision, where free legal assistance is provided by the legal professionals, the local self-government unit shall pay the 50% of remuneration for the provision of free legal assistance, while 50% of remuneration shall be paid for by the relevant Ministry. The Committee notes that these provisions are equally applicable in the case of citizens of Serbia and foreigners.

However, the Committee also notes that under Article 4 of the Law on Free Legal Aid, free legal assistance can be provided to the nationals of the Republic of Serbia, to a stateless person, to a foreign national with permanent residence in the Republic of Serbia. This provision further states that “other persons” also benefit from free legal assistance, where the legal proceedings concern the rights of a child, of a person against which a safety measure of mandatory psychiatric treatment is enforced, of a person against which the procedure for partial or complete deprivation or restoration of legal capacity is being conducted; of a person which is exercising legal protection from domestic violence, of a person with disability; etc.

The Committee recalls that any migrant worker residing or working lawfully within the territory of a State Party who is involved in legal or administrative proceedings and does not have counsel of their own choosing should be advised that they may appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if they do not have sufficient means to pay the latter.

The Committee notes that under the provisions of the Law on Free Legal Aid, only migrant workers who are permanently resident in Serbia are eligible to receive legal assistance (Article 4). The Committee observes that migrant workers who are temporarily resident in Serbia, according to the provisions of this Law, are excluded from this right and may therefore not have the same access to courts and legal proceedings as nationals. The Committee also notes that although Article 4 of the Law provides that “other persons” also benefit from free legal assistance, it is not clear in the report, nor in the legal provisions of Law on Free Legal Aid, whether “other persons” include migrant workers with a temporary residence permit and, even if this is the case, legal assistance for “other persons” covers only matters listed in Article 4, and does not cover all matters referred to in Article 19 of the Charter. The Committee reiterates its previous conclusion that the situation is not in conformity with the Charter in this respect.

### *Conclusion*

The Committee concludes that the situation in Serbia is not in conformity with Article 19§7 on the grounds that not all migrant workers are secured treatment not less favourable than that of nationals in respect of legal proceedings.

**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 Serbia.

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

In its 2015 conclusion, the Committee had found the situation not to be in conformity with the Charter on the ground that a migrant worker might be expelled where there existed reasonable doubt that they would take advantage of the stay for purposes other than those declared. In its previous conclusion (Conclusions 2019), the Committee noted that the previous report did not make it clear whether this situation has changed. It noted, however, from the report of the Governmental Committee concerning conclusions 2015 (GC(2016)22) that in 2016 a new law was adopted affecting the rights of migrant workers and strengthening their protection from expulsion. It therefore requested the next report to provide a detailed description of the new legal framework.

In the previous conclusion (Conclusions 2019), the Committee also reiterated its request for an answer to the following questions:

- whether migrants served with expulsion orders have a right to appeal to a court or other independent body which, in determining whether a migrant should be expelled, takes into account all aspects of the non-national’s behaviour, as well as the circumstances and the length of time of his/her presence in the territory of the state;
- whether recourse to social assistance may form a ground of expulsion under Serbian law or practice;
- whether risk to public health may constitute a ground for expulsion.

In reply, the report first provides that currently, the new Law on Foreigners in a package with the Law on Employment of Foreigners is under public debate. According to the report, its adoption is expected in the second quarter of 2023 (outside the reference period).

As to the question as to whether migrants served with expulsion orders have a right to appeal to a court or other independent body which takes into account all the individual circumstances of the migrant concerned, the report states that in the event that a foreigner resides illegally in the territory of the Republic of Serbia, after the procedure has been carried out, a decision on return is issued and a deadline for voluntary return is set, in which the foreigner concerned is obliged to leave Serbia.

According to the report, during the return procedure, the specific situation of particularly vulnerable persons, the family and health condition of the person, as well as the best interest of the minor, are taken into account. Special consideration is given to the principle of family unity, in the sense of the unity of all family members. Before making a decision on the return of unaccompanied minors, the assistance of the service for social protection of children and youth must be provided.

The report further states that against the return decision, an appeal is allowed within 15 days, which does not delay the execution of the decision, unless there is a risk that the foreigner will

be returned to the territory where they are threatened with persecution because of their race, sex, sexual orientation or gender identity, religion, nationality, citizenship, affiliation to a certain social group, or political opinion.

As to whether recourse to social assistance may form a ground of expulsion under Serbian law or practice and whether risk to public health may constitute a ground for expulsion, the report states that recourse to social assistance and risk to public health, if the legal conditions are not met, do not represent an independent basis for making a decision on return.

The Committee takes note of the information provided. It notes in particular that according to Article 11(8) of the Law on Foreigners in force during the reference period, a migrant worker might be expelled where there existed reasonable doubt that they would take advantage of the stay for purposes other than those declared (see, Conclusions 2015, Serbia, Article 19§8). Therefore, the situation which led the Committee to find a violation of Article 19§8 of the Charter in 2015, remained unchanged during the reference period. The Committee concludes that the situation in Serbia is not in conformity with Article 19§8 in this respect.

#### *Conclusion*

The Committee concludes that the situation in Serbia is not in conformity with Article 19§8 of the Charter on the ground that a migrant worker may be expelled where there exists reasonable doubt that they will take advantage of the stay for purposes other than those declared.

**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 Serbia.

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

In the previous conclusion (Conclusions 2019), the Committee acknowledged the fact that there appear to be no restrictions on money transfers for migrant workers. However, it asked the next report to provide more detail on legal and practical framework applicable in this respect. It also repeated its question about any possible restrictions on transfer of movable property. In the previous conclusion (Conclusions 2019), the Committee considered that if the requested information is not provided in the next report, there would be nothing to establish that the situation in Serbia is in conformity with Article 19§9 of the Charter.

In reply, the report indicates that regarding the transfer of wages and savings of migrant workers abroad, there are no legal obstacles for migrant workers to transfer money abroad. In accordance with the Law on Foreign Exchange Operations, the transfer of funds from a non-resident account abroad can be carried out with the presentation to the bank of proof, given by the competent tax authority, of settled tax obligations in the Republic of Serbia (if such obligations exist). All foreign citizens, including migrant workers, can freely transfer funds from their foreign currency or Serbian dinar account opened at a bank in the Republic of Serbia.

Nevertheless, the report does not answer to the Committee’s specific question with regard to any possible restrictions on transfer of movable property. Due to the failure to provide this information, the Committee concludes that the situation in Serbia is not on conformity with Article 19§9 of the Charter. The Committee considers that this failure to provide information amounts to a breach by Serbia of its reporting obligations under Article C of the Charter.

*Conclusion*

The Committee concludes that the situation is not in conformity with 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 Serbia of their reporting obligations under Article C of the Charter . List of questions/Information missing:

- whether there are any restrictions on the transfer of the movable property of migrant workers.

**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 Serbia.

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 Serbia not to be in conformity with Articles 19§3, 19§4, 19§6, 19§7, 19§8 and 19§9 of the Charter. Accordingly, for the same reasons as stated in the conclusions on the abovementioned Articles, the Committee concludes that the situation in Serbia is not in conformity with Article 19§10 of the Charter.

*Conclusion*

The Committee concludes that the situation in Serbia is not in conformity with Article 19§10 of the Charter as the grounds of non-conformity under Articles 19§3, 19§4, 19§6, 19§7, 19§8 and 19§9 apply also to self-employed migrants.