Strasbourg, 22 December 2016

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EUROPEAN SOCIAL CHARTER

GOVERNMENTAL COMMITTEE

REPORT CONCERNING CONCLUSIONS 2015 OF THE EUROPEAN SOCIAL CHARTER (revised)

(Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Hungary, Ireland, Italy, Lithuania, Malta, Republic of Moldova, Montenegro, Norway, Portugal, Romania, Russian Federation, Serbia, Slovenia, Slovak Republic, Sweden, Turkey and Ukraine)

Detailed report of the Governmental Committee established by Article 27, paragraph 3, of the European Social Charter[1]

Written information submitted by States on Conclusions of non-conformity is the responsibility of the States concerned and was not examined by the Governmental Committee. This information remains either in English or French, as provided by the States.

[1] The detailed report and the abridged report are available on www.coe.int/socialcharter.

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I. Introduction

1. This report is submitted by the Governmental Committee of the European Social Charter and the European Code of Social Security (hereafter "The Governmental Committee") made up of delegates of each of the forty-three states bound by the European Social Charter or the European Social Charter (revised)[2]. The Governmental Committee regretted that no Albanian delegate attended its meetings since May 2015. Representatives of the European Trade Union Confederation (ETUC) attended the meetings of the Governmental Committee in a consultative capacity. Representatives of the International Organisation of Employers (IOE) were also invited to attend the meetings in a consultative capacity, but declined the invitation.

2. Since a decision of the Ministers' Deputies in December 1998, the other signatory states were also invited to attend the meetings of the Governmental Committee (Liechtenstein, Monaco, San Marino and Switzerland).

3. The supervision of the application of the European Social Charter is based on an examination of the national reports submitted at regular intervals by the States Parties. According to Article 23 of the Charter, the Party "shall communicate copies of its reports […] to such of its national organisations as are members of the international organisations of employers and trade unions". Reports are made public on www.coe.int/socialcharter.

4. Responsibility for the examination of state compliance with the Charter lies with the European Committee of Social Rights (Article 25 of the Charter), whose decisions are set out in a volume of "Conclusions". On the basis of these conclusions and its oral examination, during the meetings, of the follow-up given by the States, the Governmental Committee (Article 27 of the Charter) draws up a report to the Committee of Ministers which may "make to each Contracting Party any necessary recommendations" (Article 29 of the Charter).

5. In accordance with Article 21 of the Charter, the national reports to be submitted in application of the European Social Charter concerned Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Russian Federation, Finland, France, Georgia, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Portugal, Romania, Serbia, Slovenia, Slovak Republic, Sweden, Turkey, Ukraine and "the former Yugoslav republic of Macedonia". Reports were due by 31 October 2014. The Governmental Committee noted with regret that Albania has not submitted a national report since 2012 and consequently did not comply with its reporting obligations under the European Social Charter for three consecutive cycles.

[2] List of the States Parties on 1 December 2016: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and United Kingdom.

6. Conclusions 2015 of the European Committee of Social Rights were adopted in December 2015 (Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Hungary, Ireland, Italy, Lithuania, Malta, the Republic of Moldova, Montenegro, the Netherlands, Norway, Portugal, Romania, the Russian Federation, Serbia, the Slovak Republic, Slovenia, Sweden, Turkey, Ukraine and "the former Yugoslav republic of Macedonia"). In the absence of a report for the third time in a row, once again no conclusions were adopted in respect of Albania.

7. The Governmental Committee congratulated Greece which ratified the Revised Charter on 18 March 2016 and invited States Parties still bound by the 1961 Charter to follow suit in the near future.

8. On 2 April 2014, the Committee of Ministers adopted at its 1196th meeting a new procedure of the reporting system on the European Social Charter entitled 'Ways of streamlining and improving the reporting and monitoring system of the European Social Charter'. To bring its Rules of Procedure in line with this new procedure, the Governmental Committee approved a revised version at its 134th meeting (26-30 September 2016).

9. The Governmental Committee held two meetings in 2016 (9-13 May 2016, 26-30 September 2016) with Ms Kristina VYSNIAUSKAITE-RADINSKIENE (Lithuania) in the Chair. In accordance with its Rules of Procedure, the Governmental Committee elected at its autumn meeting Ms Karolina KIRINCIC ANDRITSOU (Greece) as 2nd Vice-Chair in replacement of Ms Lis WITSØ-LUND (Denmark) as from January 2017 for one year. Ms Karolina KIRINCIC ANDRITSOU was elected due to her knowledge and expertise of the European Code of Social Security.

10. The Governmental Committee took note of the current priorities with respect to the Turin Process, which notably refer to:

- The organisation of high-level meetings in the member States with a view to promoting a greater acceptance of the Charter's treaty system;
- The opinion of the Secretary General on the European Union Pillar of Social Rights;
- The organisation of events concerning the Charter and the Turin process objectives in the framework of the forthcoming Chairmanships of the Committee of Ministers;
- The improvement with respect to the contents of the European Social Charter web-pages.

11. The state of signatures and ratifications on 1 December 2016 appears in Appendix I to the present report.

II. Examination of Conclusions 2015 of the European Committee of Social Rights

12. The abridged report for the Committee of Ministers only contains summaries of discussions concerning national situations in the eventuality that the Governmental Committee proposes that the Committee of Ministers adopt a

recommendation or renew a recommendation. No such proposals were made in the current supervisory cycle. The detailed report is available on www.coe.int/socialcharter.

13. The Governmental Committee applied the rules of procedure adopted at its 125th meeting (26 – 30 March 2012). According to the decision taken by the Committee of Ministers at its 1196th meeting on 2 April 2014, the Governmental Committee debated orally only the Conclusions of non-conformity as selected by the European Committee of Social Rights.

14. The Governmental Committee examined the situations not in conformity with the European Social Charter listed in Appendix II to the present report. The detailed report which may be consulted at www.coe.int/socialcharter contains more extensive information regarding the cases of non-conformity.

15. The Governmental Committee also took note of the Conclusions deferred for lack of information or because of questions asked for the first time, and invited the States concerned to supply the relevant information in the next report (see Appendix III to the present report for a list of these Conclusions).

16. During its examination, the Governmental Committee took note of important positive developments in several State Parties.

17. The Governmental Committee asked Governments to continue their efforts with a view to ensuring compliance with the European Social Charter and urged them to take into consideration any previous Recommendations adopted by the Committee of Ministers.

18. The Governmental Committee was informed of the 2015 findings of the European Committee of Social Rights on the follow-up to decisions on collective complaints with respect to France, Portugal, Italy, Belgium, Bulgaria, Ireland and Finland. In accordance with the decision taken by the Committee of Ministers at its 1196th meeting on 2 April 2014, these countries submitted in 2014 a simplified report for the first time. After an exchange of views the Governmental Committee agreed that reflection should continue with the European Committee of Social Rights with a view to improving the reporting system.

19. The Governmental Committee proposed to the Committee of Ministers to adopt the following Resolution:

Resolution on the implementation of the European Social Charter during the period
2010-2013 (Conclusions 2015), provisions related to the thematic group "Children, families, migrants"

(Adopted by the Committee of Ministers on ....
at the .... meeting of the Ministers' Deputies)

The Committee of Ministers,[3]

Referring to the European Social Charter, in particular to the provisions of Part IV thereof;

Having regard to Article 29 of the Charter;

Considering the reports on the European Social Charter submitted by the Governments of Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Hungary, Ireland, Italy, Lithuania, Malta, the Republic of Moldova, Montenegro, the Netherlands, Norway, Portugal, Romania, the Russian Federation, Serbia, the Slovak Republic, Slovenia, Sweden, "the former Yugoslav republic of Macedonia", Turkey and Ukraine;

Having regard to the repeated failure to submit a report by Albania;

Considering Conclusions 2015 of the European Committee of Social Rights appointed under Article 25 of the Charter;

Following the proposal made by the Governmental Committee established under Article 27 of the Charter,

Recommends that governments take account, in an appropriate manner, of all the various observations made in the Conclusions 2015 of the European Committee of Social Rights and in the report of the Governmental Committee.

EXAMINATION ARTICLE BY ARTICLE[4]

Conclusions 2015 – Revised European Social Charter (RESC)

(Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Estonia, Finland, France, Georgia, Hungary, Ireland, Italy, Lithuania, Malta, Republic of Moldova, Montenegro, Norway, Portugal, Romania, Russian Federation, Serbia, Slovenia, Slovak Republic, Sweden, Turkey and Ukraine)

[3] At the 492nd meeting of Ministers' Deputies in April 1993, the Deputies "agreed unanimously to the introduction of the rule whereby only representatives of those states which have ratified the Charter vote in the Committee of Ministers when the latter acts as a control organ of the application of the Charter". The states having ratified the European Social Charter or the European Social Charter (revised) are (1 December 2016):
Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine and United Kingdom.

[4] State Parties in English alphabetic order.

REVISED EUROPEAN SOCIAL CHARTER

Article 7§1 – Prohibition of employment under the age of 15

RESC 7§1 ARMENIA

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

1. *the definition of light work is not sufficiently precise;*
2. *the daily and weekly working time for children under the age of 15 is excessive and therefore cannot be qualified as light work.*

1st ground of non-conformity

20. The situation is not in conformity on this ground for the first time.

2nd ground of non-conformity

21. The situation is not in conformity on this ground since Conclusions 2011.

22. On the previous occasion, the delegate of Armenia indicated that steps would be taken to remedy the violation (Detailed Report concerning Conclusions 2011, § 30).

23. The Representative of Armenia informed the GC that Article 17 of the Labour Code had been amended according to which the list of works allowed for children under the age of 14 had been prescribed. They are allowed to be engaged in creation and/or performance of works in cinematographic, sporting, theatrical or concert organizations, circus, television and radio, subject to the written consent of one of the parents or adopter or custodian or care and custody institution, without prejudice to their education and health, security and morality.

24. She further reported that according to the amendments brought to Article 140 of the Labour Code in June 2015, the following differentiated working times are prescribed:

- for children under 7 years of age: up to two hours per day, but not more than four hours per week;
- for children from 7 up to 12 years of age: up to three hours per day, but not more than six hours per week;
- for children from 12 to 14 years of age: up to four hours per day, but not more than twelve hours per week.

25. According to the amendments brought to Article 154 of the Labour Code in June 2015, the duration of daily uninterrupted rest of employees up to 16 years of age must be at least 16 hours. Before the amendment entered into force, the rest period was of 14 hours.

26. The Representative of Luxembourg proposed that the GC should take note of the information provided by the Representative of Armenia and wait for the next assessment of the ECSR.

27. The GC took note of the information and explanations provided and recalled that Article 7§1 was one of the hard-core provisions of the Charter. The GC invited the Government of Armenia to include all the relevant and updated information in its next report and decided to await the ECSR's next assessment.

RESC 7§1 CYPRUS

The Committee concludes that the situation in Cyprus is not in conformity with Article 7§1 of the Charter on the ground that the duration of light work during non-school days is excessive.

28. The situation is not in conformity on this ground for the first time.

29. The Representative of Cyprus stated that there was a mistake in the national report submitted by Cyprus which led the ECSR to reach a conclusion of non-conformity.

30. She further indicated that the relevant legislation, which regulates the participation of children between the ages of 13 to 15 in cultural, artistic and similar activities, is provided for by Article 7 (4) (c) of Law 48(I) of 2001 as amended by law No.15 (I)/2012, and is set for a maximum duration of 4 hours per day. Participation in these activities is not considered to be "light work" and this is the reason it is regulated separately. Regulations on the Protection of young persons at work no. 78 of 2012 and more specifically Regulation 14, additionally provide that a child's actual performance in a cultural activity must not exceed one hour for children aged 13-15.

31. The Representative of Cyprus further mentioned that it is true that the duration of light work is provided for in Article 8 of Law 48(I) of 2001, which sets seven hours and 15 minutes work per day as the maximum amount of permissible work time. However, this should be read together with Article 5 of the same Law which effectively prohibits all forms of employment of children, and Article 6(1) which only allows the participation of children who have completed their compulsory education and therefore do not attend regular compulsory schooling in a combination program of vocational training/work, that aims at learning a skill or profession, after a special permit from the competent Minister.

32. The GC took note of the information and explanations provided and recalled that Article 7§1 was one of the hard-core provisions of the Charter. The GC invited the Government of Cyprus to include the information in its next report and decided to await the the ECSR's next assessment.

RESC 7§1 ESTONIA

The Committee concludes that the situation in Estonia is not in conformity with Article 7§1 of the Charter on the ground that the daily and weekly working time for children under the age of 15 is excessive and therefore cannot be qualified as light work.

33. The situation is not in conformity on this ground for the first time.

34. The Representative of Estonia informed the GC that the Ministry of Social Affairs was preparing amendments to the Employment Contract Act (ECA) regarding working conditions, in particular working time for minors.

35. He added that Article 43(4) of ECA that regulates shorter working hours for minors will be amended. The working hours for children under 15 years of age will be amended as follows:

1. for children who are 7-12 years of age, working time will be:
   - 2 hours a day and 12 hours over a period of seven days during school term;
   - 3 hours a day and 15 hours over a period of seven days during school holidays.
2. for children who are 13-14 years of age or subject to the obligation to attend school, working time will be:
   - 2 hours a day and 12 hours over a period of seven days during school term, and
   - 4 hours a day and 20 hours over a period of seven days during school holidays.

36. The Representative of Estonia mentioned that the draft act is expected to reach the Government in September 2016 and if it passes the Parliament, the amendment is expected to enter into force during the second half of 2017.

37. In reply to a question raised by the Representative of France concerning the type of work that children are allowed to perform, the Representative of Estonia emphasized that under ECA only light work may be performed by children. For example, it is permitted for minors of 7-12 years of age to perform light work in the fields of culture, art, sports or advertising.

38. The GC took note of the information and explanations provided and invited the Government of Estonia to include them in its next report. The GC welcomed the positive developments and decided to await the ECSR's next assessment.

RESC 7§1 GEORGIA

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

- *the prohibition of employment under the age of 15 does not apply to all economic sectors and all forms of economic activity;*
- *the daily and weekly working time for children under 15 is excessive and therefore cannot be qualified as light work;*
- *during the reference period there was no labour inspection supervising that the regulations on child labour were respected in practice.*

39. The situation is not in conformity on these grounds for the first time.

1st ground of non-conformity

40. The Representative of Georgia indicated that according to Article 4 of the Labour Code, the labour contract can be concluded with a minor under 16 only with

the consent of their legal Representative or a custody/guardianship authority unless the labour relations harm the minors' interests, prejudice their moral, physical and mental development, and limit their right and opportunity to acquire compulsory primary and basic education.

41. She added that a labour contract may be concluded with the 14-year-old person only for fulfilling light work, namely: sport, art and culture, as well as for performing certain advertising work. Concluding labour contracts with minors, involving them to perform hard, harmful, or hazardous work shall be prohibited. A labour contract with minors under 14 may be concluded only in connection with the activities in sport, art, and culture, as well as for performing certain advertising work.

42. The Representative of Georgia further mentioned that a number of activities are being carried out by the Government, including the preparation of the establishment of the state monitoring agency on labour conditions and labour rights issues. The supervision of compliance with the terms and conditions of the labour rights will be one of the functions of the agency.

43. The Representative of Georgia added that under the agreement with the ILO, the National Statistics Office of Georgia (GEOSTAT) undertook a National Research on Child Labour. About 7700 households have been interviewed, where 5-17 year-old children reside. The study is based on the relevant UN convention on the Elimination of Child Labour and aims to reveal engagement of children in economic and non-economic activities. Fieldwork of the research was done in October-December 2015 and the final results will be published by the 3rd quarter of 2016.

2nd ground of non-conformity

44. The Representative of Georgia mentioned that, with the support of the ILO, the Government of Georgia and social partners have elaborated a strategic plan which includes Labour Code amendments, ratification of ILO conventions, European Social Charter, approval of list of mediators, etc. In order to work on the amendments to the Georgian Labour Code a working group under the Tripartite Social Partnership Commission consisting of line ministries, social partners and NGOs was set up. Proposals and suggestions regarding possible amendments are being listed and will be discussed at the working group meetings, including working hours for minors under 14.

3rd ground of non-conformity

45. According to the Representative of Georgia, the "Labour Conditions Monitoring State Program" was approved on February 5, 2015 with the Government resolution. For the implementation of the program, in June 2015, 25 inspectors were selected by the Ministry of Labour, Health and Social Affairs of Georgia. Furthermore, with the guidance of the International Labour Organization (ILO) and the European Agency of Safety and Health at Work, the above mentioned inspectors were given trainings in July 2015, September 2015 and November 2015. A new "Labour Conditions Inspection State Program" for 2016 has been approved by the Government of Georgia.

46. According to the Rule of the State Supervision/Labour, the Labour Inspection Department supervises the prevention of forced labour and labour exploitation. In case of detecting human trafficking, the Department informs the investigative authorities for further action.

47. Current data indicate that since July 2015 inspectors visited around 150 undertakings on occupational health and safety issues (25 state undertakings and 125 private companies). Employers have already received recommendations on occupational safety and health issues. Further reports, questionnaires (checklists) and recommendations are being analysed currently at the Labour Inspection Department.

48. The Representative of ETUC enquired to what extent these inspections were effective and to what extent the supervision of work performed by children was a priority in Georgia. The Representative of Georgia answered that the priorities of the Labour Inspection Department consisted in detecting human trafficking/forced labour and monitoring health and safety issues. However, there were discussions on-going with a view to amending the Labour Code so that the Labour Inspection would monitor labour rights and consequently working time for children.

49. The Representative of Georgia further noted that the survey undertaken by GEOSTAT (National Statistics Office of Georgia) concerned work performed by children in households. Some cases of child labour were detected and suggestions and recommendations were addressed, but no sanctions were applied. The results of this Survey were expected soon and furthermore a proposal for amending the Labour Code might be advanced.

50. In reply to a question raised by the Representative of France whether work performed by children within the family was being monitored, the Representative of Georgia answered that child labour was being monitored only within companies, but not in the context of family businesses and self-employment.

51. The GC took note of the information provided and invited the Government of Georgia to include all the relevant and updated information in its next report. The GC recalled that Article 7§1 was one of the hard-core provisions of the Charter. The GC asked the Government of Georgia to take the necessary measures to remedy the situations of non-conformity and decided to await the next assessment of the ECSR.

RESC 7§1 HUNGARY

The Committee concludes that the situation in Hungary is not in conformity with Article 7§1 of the Charter on the ground that the definition of light work is not sufficiently precise.

52. The situation is not in conformity on this ground for the first time.

53. The Representative of Hungary emphasized that the Government will take into account the conclusion of the ECSR in the context of the next general revision of the Labour Code foreseen in 2017.

54. She indicated that the notion of light work could not be easily defined and the creation of an up-to-date list of light work in a changing economic environment was not possible. Consequently, the Hungarian legislation in addition to the labour law requirements provided for the protection of young employees with restrictions concerning the safety at work and occupational health. Therefore, in Hungary the aptitude of the young employee for carrying out a given work was to be tested/examined not only in certain occupations/employment activities but in general.

55. The Representative of Hungary further described the procedure of examination. The legislation provided the list of work burdens in cases when the employment of young people was prohibited or allowed only under certain conditions, as well as the list of those working conditions when risk assessment was to be carried out in the framework of the aptitude test for the employment of young people. The experts report on the work aptitude referred to the sphere of the activity identified by the employer, on the basis of the requirements and characteristics of that given work activity and with the knowledge of the health status and personal circumstances of the young employee. In this relation the employer would define the order of work aptitude tests in writing, as well as his/her tasks relating to the tests, including the coverage and frequency of periodical work aptitude tests. In the elaboration of workplace regulations the occupational health doctor shall be involved by asking his/her opinion. At the request of the expert body carrying out the work aptitude test, the employer shall present all data concerning the sphere of activity and the workplace he/she found necessary to the formulation of expert opinion or the expert body asked for. In addition to the data provided by the employer, if the expert body needed information at the workplace, the employer shall ensure to gather it at the concrete place of work.

56. The Representative of Hungary concluded that the Hungarian legislation provided for appropriate guarantees for the protection of health and moral development of young workers against the workplace burdens. According to the medical regulations the examination of these guarantees was ensured in the state health care system for all kinds of work with the active cooperation of employers. The control of implementation was an important element of the protective guarantees. The Act LXXV of 1996 on labour inspection explicitly stipulated among the tasks of the Labour Inspectorate the control of the implementation of rules concerning the young employees.

57. The GC took note of the information and explanations provided and recalled that Article 7§1 was one of the hard-core provisions of the Charter. The GC invited the Government of Hungary to include all the relevant and updated information in its next report and to take the necessary measures to remedy the situation and decided to await the ECSR's next assessment.

RESC 7§1 LITHUANIA

The Committee concludes that the situation in Lithuania is not in conformity with Article 7§1 of the Charter on the ground that during school holidays the daily and weekly working time for children under 15 years of age is excessive and therefore cannot be qualified as light work.

58. The situation is not in conformity on this ground for the first time.

59. The Representative of Lithuania indicated that the Draft Law (10-03-2016 No. XIIP-3243(2) amending the Law on Occupational Safety and Health had been prepared. It provided that children, who performed light works during school holidays for not less than 1 week, should work not more than 6 hours per day and 30 hours per week.

60. She added that the Draft Law had been submitted to the Committee of Social Affairs and Labour of the Parliament of the Republic of Lithuania on 10th March 2016 and had been approved. It was planned that the Parliament examined the Draft Law in Seimas' during its 2016 spring session.

61. The GC took note of the positive developments concerning the new draft law and invited the Government of Lithuania to include the updated information in its next report. The GC decided to await the ECSR's next assessment.

RESC 7§1 REPUBLIC OF MOLDOVA

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 7§1 of the Charter on the ground that the definition of light work is not sufficiently precise.

62. The situation is not in conformity on this ground for the first time.

63. The Representative of the Republic of Moldova indicated that compulsory education ended at the gymnasium level, namely at the age of 16 years (which meant 9 years of study). Section 13(2) of the Code on Education provided that the obligation to attend compulsory education ceased at the age of 18, even if the person had not completed the full courses of compulsory education.

64. She further added that employing children under 15 was prohibited by law with no exceptions. Section 46 of the Labour Code concerning the minimum age for admission to employment applied to all sectors of the national economy, including farms. The prohibition to employ children under the age of 15 applied to all persons exercising a work activity, that meant all those for which the law prescribed the obligation to conclude an individual labour contract. Children of 15-17 years of age may be employed, but only under certain conditions (for example for children of 15 years old, the authorization of parents is required).

65. The Representative of Republic of Moldova stated that there was no approved list of light work for children. However, there was a Nomenclature of heavy, harmful and/or dangerous works for which it was prohibited to employ persons under the age of 18 and the maximum load standards allowed for those under the age of 18 handling weight. The Nomenclature and the standards were applicable when employing minors aged 15-17.

66. Under Article 4 of the Collective Agreement of 2007 at national level on the elimination of the worst forms of child labor, students of general secondary education and vocational secondary education may be admitted only to works that would not harm their health, development, education and vocational training. The Collective Agreement also contained the list of jobs prohibited for persons under the age of 18.

67. The Representative of the Republic of Moldova mentioned that even if children aged 15-17 were subject to the following working time limits: 15-16 years - 24 hours per week and 5 hours per day, 16-18 years old - 35 hours per week and 7 hours per day, cases where students have been working 7 hours per day have not been registered (moreover that the course lasted about 5 hours a day, plus homework required at least few hours). She mentioned that child labor in general was not a widespread practice in the country.

68. The Representative of the Republic of Moldova further provided some statistical data regarding the monitoring. Within 5 years the Labour Inspectorate has detected 200 cases of child labor (involving children under the age of 15, namely aged 12-14). Until 2014, children aged 10-11 could be involved in agricultural autumn work with the consent of the parents. Following a Decision of the Ministry of Education in 2014, it was now forbidden to involve students in agricultural work. No case of labor involving pre-school age children had been detected.

69. The supervision of child labour was not ensured only by the Labour Inspectorate, but also by all institutions involved in education, health, social assistance, public order which shall cooperate in detecting situations when children were at risk. Any institution may inform/notify the Labour Inspectorate in case child labour was detected.

70. In 2014, a toll-free telephone service for children was established by the Ministry of Labour, Social Protection and Family and implemented by the International Centre LA STRADA. The service would be available 24/24 hours, confidential and anonymous. During 2015, the operators of this telephone service received only 3 cases of potential exploitation of child labor.

71. The GC took note of the information and explanations provided and invited the Government of the Republic of Moldova to include all the requested information in its next report and to take the necessary measures to remedy the situation. The GC decided to wait the ECSR's next assessment.

RESC 7§1 NORWAY

The Committee concludes that the situation in Norway is not in conformity with Article 7§1 of the Charter on the ground that the daily and weekly duration of light work permitted during school holidays for children under the age of 15 is excessive and therefore cannot be qualified as light work.

72. The situation is not in conformity on this ground for the first time.

73. The Representative of Norway stated that in Norway the minimum age of admission to employment was 15. She further indicated that the Norwegian regulation allowed for certain exceptions. However, in her opinion, the rules defining and limiting these exceptions, combined with the duties of the employers and clear working hour limits of such work, secured that the Charter's requirements regarding light work was fulfilled.

74. Firstly, as stated in the Working Environment Act that work performed under the age of 15 had to be light. Minimum age for performing such light work was 13 years. The Act also allowed for cultural work and for work that formed part of their schooling or practical vocational guidance. Secondly, light work was strictly defined in the Norwegian regulation as work which would not affect children's safety, health or development in an unfortunate way, and did not go beyond their schooling, participation in vocational guidance or vocational training, or their ability to benefit from education. Thirdly, employers had to assess the risks to which the children were exposed. The risk assessment shall be based on the organisation of the work and the unfortunate psychological strains that the work may entail. The employer was obliged to implement necessary measures to safeguard the health, safety and development of young workers. The employers also had obligations to obtain a written consent from the parents, to inform the parents of any risks and to consult the safety Representatives before involving them in work.

75. The Representative of Norway emphasized that the Norwegian regulation clearly set out the conditions for the performance of light work as well as a maximum permitted duration of such work. She concluded that in the light of all the requirements mentioned above, it was understood that the Norwegian regulation was in compliance with Article 7§1 of the Charter. She stated that the Government took note of the ECSR's conclusion. It will be examined if the regulation regarding the employment of children was to be reviewed.

76. The GC took note of the information and explanations provided and invited the Government of Norway to include all the relevant and updated information in its next report. The GC recalled that Article 7§1 was one of the hard-core provisions of the Charter and decided to await the ECSR's next assessment.

RESC 7§1 SWEDEN

The Committee concludes that the situation in Sweden is not in conformity with Article 7§1 of the Charter on the ground that the daily and weekly working time for children under the age of 15 is excessive and therefore cannot be qualified as light work.

77. The situation is not in conformity on this ground for the first time.

78. The Representative of Sweden indicated that school was compulsory for a period of nine years from the age of 7 to 16. The ECSR had rightly noted that children under the age of 13 may not work at all, unless in two exceptional cases.

79. One exception concerned very light work without any risks within a business run by the closest family without other employees. For example, very light work may be helping out in the garden. It was unusual for children to perform work in family companies. So far, there have been no reports or any other indications of excessive work for children who have not reached the age of 13 presented to the Work Environment Authority (the Authority). Thus, supervision regarding situations like this had not been a priority. Nevertheless, annual inspections had been performed at workplaces where many young people perform work.

80. The other exception was when the Authority had given prior authorisation to perform work in cultural, artistic, sports or advertising activities. In this context the content and the duration of the work should be taken into account. Normally these activities were limited to one or a couple of days and no authorisations were granted without time limits. The Authority was currently looking into how this assessment should be made. The Representative of Sweden highlighted that even working fewer hours than 6 hours per day or 30 hours per week may very well be regarded as too excessive for a specific child. As mentioned, in principle children were prohibited to work in Sweden. To give effect to these provisions, it was a criminal offence not to apply for a prior authorisation or to breach the conditions of a prior authorisation. These offences were a matter for the judicial system and the Authority was obliged to report any suspected offences to the police.

81. As for children who have reached the age of 13 but not the age of 16 and who are still subject to compulsory attendance at school, they may not perform work that required physical or mental strength. Besides the restrictions that were already presented in the report, for example rules on minimum rest periods and maximum work hours during school weeks and during holidays, it was important to have the bigger picture for how it was safeguarded that these children only performed light work.

- The legal guardian of a child was obliged to make sure that the child fulfilled compulsory school. It could be through a decision to issue an order directed to the legal guardian to fulfil his or hers obligation. Such an order can also be combined with a fine.
- If a child was not in school, the municipality was obliged to take necessary actions to ensure a child´s right to education. It may include investigating if the child´s possibility to attend school had to do with shortcomings in the family situation. Their obligation also included addressing any such problem.
- In order to be allowed to hire children who had not reached the age of 16 and who were still subject to compulsory attendance at school, the employer shall make sure that the legal guardians had given their consent.
- The employer would make an investigation and a risk assessment with attention to the special needs of the individual minor. This could imply that a specific minor even if working for 6 hours a day or 30 hours a week may be considered as too excessive.
- The minors' holidays should amount to at least four consecutive weeks every year during school holidays.

82. The Representative of Sweden concluded that the above mentioned information showed that the use and effect of the existing rules safeguarded children from performing work instead of being in school and from excessive work. She outlined that the Government of Sweden did consider the time length of worked hours as an important parameter when assessing if work could be considered as light and that this was duly incorporated in the Swedish system.

83. The GC took note of the information and explanations provided and invited the Government of Sweden to include these information in its next report. The GC

recalled that Article 7§1 was one of the hard-core provisions of the Charter and decided to await the ECSR's next assessment.

RESC 7§1 "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"

The Committee concludes that the situation in 'the former Yugoslav Republic of Macedonia' is not in conformity with Article 7§1 of the Charter on the ground that the daily and weekly working time for children under the age of 15 is excessive and therefore cannot be qualified as light work. The Committee concludes that the situation is not in conformity with Article 7§3 on the ground that the duration of working time for young persons, still subject to compulsory education is excessive and therefore, cannot be qualified as light work.

84. The situation is not in conformity on these grounds for the first time.

85. The Representative of 'the former Yugoslav Republic of Macedonia' emphasised that the legislation in force since 2010, explicitly forbid employment of a child younger than 15 years of age or a child who had not completed his/her mandatory education. The Law also allowed for exceptions, according to which children younger than 15 could participate or could be engaged (but not employed) for a compensation in activities, that in their scope and character did not have a harmful influence on the health, safety, development and education of a child. These may include participation in cultural and artistic activities, sport events and advertisement/marketing activities.

86. The Law also prescribed the maximum allowed duration of such activities as not longer than four hours a day, which, according to the Representative of 'the former Yugoslav Republic of Macedonia' was the ground of non-conformity.

87. According to the Representative of 'the former Yugoslav Republic of Macedonia', the State Labour Inspectorate Service had never identified the existence of child labor or of a situation that would be in breach of the legislation. This ground of non-conformity had been brought to the attention of the State Labour Inspectorate. All information available at the State Labour Inspectorate showed that engagements of children below 15 years of age were quite rare. In no way they represented an obstacle that would "deprive the children of the full benefit of their education" or would represent a threat to their health, safety and/or development. Nevertheless, the State Labour Inspectorate envisaged strengthening specifically the inspections of the work of the organisers of the cultural, artistic, sport and marketing activities, where children could participate.

88. Moreover, since the main source of non-conformity was the legal limitation of light work to a maximum of four hours per day, the Government was willing to seriously consider the possibility of amending the legislation on the basis of the ECSR's Conclusion.

89. The Chair noted that the situation in practice seemed to be fine but the legislation was not in conformity with the Charter as regards the possible maximum duration of light work of children under 15 years of age and of children still in compulsory education.

90. The Representative of Luxembourg proposed that the GC awaits the next ECSR assessment allowing the authorities to remedy the situation in the meantime.

91. The GC took note of the information provided and asked the Government of 'the former Yugoslav Republic of Macedonia' to remedy the situation. The GC decided to await the next assessment of the ECSR.

RESC 7§1 UKRAINE

The Committee concludes that the situation is not in conformity with Article 7§1 of the Charter on the ground that the definition of light work is not sufficiently precise.

92. The situation is not in conformity on this ground since Conclusions 2011. On the previous occasion the Representative of Ukraine indicated that steps would be taken to remedy the situation of non-conformity.

93. The Representative of Ukraine noted that the definition of light work was included in the new draft Labour Code which Parliament adopted at the first reading on 5 November 2015. The draft was currently under preparation for the second reading. After the adoption of the new Labour Code, the Ministry for Health would be obliged to establish the list of light work.

94. The GC took note of the information about the draft law, invited the Government of Ukraine to provide all the necessary information in the next report and decided to await the next assessment of the ECSR.

Article 7§3 – Prohibition of employment of children subject to compulsory education

RESC 7§3 ARMENIA

The Committee concludes that the situation in Armenia is not in conformity with Article 7§3 of the Charter on the grounds that:

- *the daily and weekly working time for children subject to compulsory education is excessive;*
- *the definition of light work is not sufficiently precise.*

<u>1st ground of non-conformity</u>

95. The situation is not in conformity on this ground since Conclusions 2011. On the previous occasion, the Representative of Armenia provided written information (Detailed Report concerning Conclusions 2011, § 78).

<u>2nd ground of non-conformity</u>

96. The situation is not in conformity on this ground for the first time.

97. Concerning both grounds of non-conformity, see the explanations given on Article 7§1.

RESC 7§3 CYPRUS

The Committee concludes that the situation in Cyprus is not in conformity with Article 7§3 of the Charter on the grounds that:

- *the duration of light work during school term for children aged 13-15 is excessive;*
- *duration of light work for children subject to compulsory education on non-school days is excessive.*

1st ground of non-conformity

98. The situation is not in conformity on this ground since Conclusions 2011. On the previous occasion, the Representative of Cyprus provided written information (Detailed Report concerning Conclusions 2011, § 81).

2nd ground of non-conformity

99. The situation is not in conformity on this ground for the first time.

100. Concerning both grounds of non-conformity, see the explanations given on Article 7§1.

RESC 7§3 ESTONIA

The Committee concludes that the situation in Estonia is not in conformity with Article 7§3 of the Charter on the ground that the daily and weekly working time for children subject to compulsory education is excessive.

101. The situation is not in conformity on this ground since Conclusions 2011.

102. On the previous occasion, the Representative of Estonia provided written information (Detailed Report concerning Conclusions 2011, § 83).

103. The Representative of Estonia informed the GC that the Ministry of Social Affairs was preparing amendments to the Employment Contract Act (ECA) regarding working conditions of minors, in particular to the provisions that provided shorter working time for minors. The new legislation would make a difference between working time of minors during school term and during school holidays. The new legislation concerned employees aged 7-14 years or subject to the obligation to attend school. That meant, if the employee was over 14 years old but still subject to the obligation to attend school, shortened working time had to be applied.

104. The Representative of Estonia further indicated that working time would be amended as follows (as described also under Article 7§1):

1. in the case of an employee who is 7-12 years of age, working time would be:
    - 2 hours a day and 12 hours over a period of seven days during school term;
    - 3 hours a day and 15 hours over a period of seven days during school holidays.

2. in the case of an employee who is 13-14 years of age or subject to the obligation to attend school, working time would be:

- 2 hours a day and 12 hours over a period of seven days during school term and
- 4 hours a day and 20 hours over a period of seven days during school holidays.

105. The Representative of Estonia mentioned that the draft act is expected to reach the Government in September 2016 and it it passes the Parliament, the amendment was expected to enter into force during the second half of 2017.

106. The GC took note of the information concerning the amendments to the Employment Contract Act and asked the Government of Estonia to include the updated information in its next report. The GC invited the Government of Estonia to proceed with the positive developments and decided to await the ECSR's next assessment.

RESC 7§3 GEORGIA

The Committee concludes that the situation in Georgia is not in conformity with Article 7§3 of the Charter on the grounds that:

- *the daily and weekly duration of light work permitted to children subject to compulsory education is excessive and therefore cannot be qualified as light work;*
- *during the reference period there was no labour inspection to monitor the conditions of work of children who are still subject to compulsory education.*

107. The situation is not in conformity on these grounds for the first time.

108. Concerning both grounds of non-conformity, see the explanations given on Article 7§1.

RESC 7§3 LITHUANIA

The Committee concludes that the situation in Lithuania is not in conformity with Article 7§3 of the Charter on the ground that during school holidays the daily and weekly working time for children subject to compulsory education is excessive and therefore cannot be qualified as light work.

109. The situation is not in conformity on this ground for the first time.

110. See the explanations provided on Article 7§1.

RESC 7§3 REPUBLIC OF MOLDOVA

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 7§3 of the Charter on the grounds that:

- *the daily and weekly working time for children subject to compulsory education is excessive and therefore it cannot be qualified as light work;*
- *it has not been established that children who are still subject to compulsory education are guaranteed at least two consecutive weeks of rest during summer holiday.*

1st ground of non-conformity

111. The situation is not in conformity on this ground since Conclusions 2011. On the previous occasion, the Representative of the Republic of Moldova provided written information (Detailed Report concerning Conclusions 2011, § 103).

2nd ground of non-conformity

112. The situation is not in conformity on this ground for the first time.

113. Concerning both grounds of non-conformity, see the explanations provided on Article 7§1.

RESC 7§3 NORWAY

The Committee concludes that the situation in Norway is not in conformity with Article 7§3 of the Charter on the grounds that:

- *the daily and weekly working time during school holidays for children subject to compulsory education is excessive and therefore cannot be qualified as light work;*
- *it is possible for children who are still subject to compulsory education to deliver newspapers, before school, from 6 a.m. for up to 2 hours per day, 5 days per week;*
- *young persons under 18 years of age who are still subject to compulsory education are not guaranteed an uninterrupted rest period of at least two weeks during summer holiday.*

1st ground of non-conformity

114. The situation is not in conformity on this ground for the first time.

115. See the explanations provided on Article 7§1 for this ground.

2nd ground of non-conformity

116. The situation is not in conformity on this ground since Conclusions 2011.
117. On the previous occasion, the Representative of Norway provided written information (Detailed Report concerning Conclusions 2011, § 101).

118. The Representative of Norway indicated that the ECSR seemed to have based its conclusion on this matter on the guidelines published by the Norwegian Labour Inspectorate, where the deliverance and sale of newspapers was considered “light work”.

119. She further emphasized that these guidelines mentioned the deliverance of newspapers as an example of what kind of work could be performed by children between 13 and 15 years of age, such as working in a shop or in an office. In relation to these examples, the guidelines clearly specified that such work may only be performed if the work was “light”. It was possible that some newspaper delivery, office work or work in a shop may be considered as too heavy for this age group and it had to be subject to a specific assessment.

120. She added that employers had a duty to assess the risks to which young workers would be exposed in order to determine if the work fell within the strict definition of light work. The light work was defined as work that, due to the nature of the tasks and the special conditions under which they were to be carried out, did not have any unfortunate effect on the children's health, safety or development, and which did not affect their schooling, participation in vocational guidance or training, or their chance of benefiting from education. The Working Environment Act clearly determined that working hours for persons less than 18 years of age would be so arranged that they did not interfere with their schooling or prevent them from benefiting from their lessons.

121. The Representative of Norway pointed out that the delivery of newspapers by school children in the morning seemed to be a very limited or maybe even non-existing case in Norway today. Information from big distribution firms in Norway indicated that they did not use school children for their morning deliveries and normally adult workers were used for the morning deliveries. The previous practice of hiring children from 13 years of age for the delivery of the afternoon issue had also ended.

122. She further mentioned that the Labour Inspectorate did not have any recent cases or complaints concerning the subject of delivery of newspapers by children.

123. The Representative of Sweden outlined that nowadays the process of distribution of newspapers had changed since reality had changed and the updated information provided by Norway would be assessed by the ECSR in light of the new reality.

124. The Representatives of France and ETUC pointed out that this is not a new situation of non-conformity. In the past, the GC had lengthy discussions on the delivery of newspapers by children.

125. The Representative of ETUC questioned the selection of situations of non-conformity to be discussed by the GC which was made by the ECSR. It seemed that some long – standing situations of non - conformities were not discussed at all. He was of the opinion that the working methods should be revised in the future.

<u>3rd ground of non-conformity</u>

126. The situation is not in conformity on this ground for the first time.

127. The Representative of Norway indicated that the Working Environment Act provided that persons under 18 years of age who attended school would have at least four weeks of holiday a year, of which at least two weeks were to be taken during the summer holiday. As opposed to other employees – who only have a right to take holiday during the summer - children and young persons under the age of 18 had an obligation to take at least two of the four holiday weeks over the course of the summer holiday. The statute did not stipulate that these two holiday weeks must be taken without interruption.

128. She further informed the GC that the Labour Inspectorate had never experienced that it was a problem/or that it had ever been questioned that young workers were given too short holidays or that they had not been allowed to take consecutive holidays during the summer.

129. She concluded that the Government took note of the ECSR's opinion. It would be discussed if the regulation regarding the employment of children was to be reviewed. However, no concrete plans of changes of this regulation were envisaged for the moment.

130. The Chair of the GC outlined that this was the first time when the situation was not in conformity on this ground as a result of the application by the ECSR of its Statement of Interpretation on Article 7§3 (2011) requiring 2 consecutive weeks free from any work during the summer holidays.

131. The GC took note of the information and explanations provided and invited the Government of Norway to include all the relevant and updated information in its next report. The GC recalled that Article 7§3 was one of the hard-core provisions of the Charter and decided to await the ECSR's next assessment.

RESC 7§3 SLOVENIA

The Committee concludes that the situation in Slovenia is not in conformity with Article 7§3 of the Charter on the ground that the duration of light work for children subject to compulsory education during school holidays is excessive.

132. The situation is not in conformity on this ground for the first time.

133. The Representative of Slovenia indicated that according to the Slovenian legislation, a child who had reached the age of 13 may perform light work but only upon a work permit issued by the Labour Inspectorate. Labour inspectors needed to assess the risk of the work to be performed to the child's safety, health, morals, education and development. If the risk existed, the work permit was not being issued.

134. She further stated that during school holidays light work may be performed for maximum 30 days in duration of 7 hours per day and 35 hours per week. However, according to the data of the Labour Inspectorate during the reference period all work permits for children subject to compulsory education were issued for advertisement and film shooting. In all cases the maximum of working hours did not exceed 2 hours per day and 12 hours per week.

135. The Representative of Slovenia concluded that the Employment Relations Act (2013) allowed light work to be performed by a child in duration of 7 hours per day and 35 hours per week, but the statistics/data showed that the practice in Slovenia seemed to be in conformity with the Charter. Therefore, the Government of Slovenia considered bringing the Employment Relations Act in conformity with Article 7§3 of the Charter on the occasion of its next amendment.

136. The Representative of Slovenia said that the ECSR's conclusion of non-conformity would be taken into account at the next revision of the Employment Relations Act which would take place in 2016 in consultation with the social partners.

137. The GC took note of the information and explanations provided and invited the Government of Slovenia to include the updated information in its next report. The GC asked the Government of Slovenia to take the necessary measures to remedy the situation and decided to await the ECSR's next assessment.

RESC 7§3 SWEDEN

The Committee concludes that the situation in Sweden is not in conformity with Article 7§3 of the Charter on the ground that the daily and weekly duration of light work for children who are still subject to compulsory education during school holidays is excessive and therefore cannot be qualified as light work.

138. The situation is not in conformity on this ground for the first time.

139. See the explanations given on Article 7§1.

RESC 7§3 "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"

140. See the comments made under Article 7§1 above.

RESC 7§3 TURKEY

The Committee concludes that the situation is not in conformity with the Charter on the ground that the duration of light work permitted to children subject to compulsory education during school holidays is excessive.

141. The situation is not in conformity on this ground for the first time.

142. The Representative of Turkey informed the GC that this conclusion of non-conformity was based on the Committee's Statement of Interpretation set out in the General Introduction, Conclusions 2015, according to which the ECSR considered that children who were still in compulsory schooling should not perform light work during school holidays for more than 6 hours per day and 30 hours per week.

143. Article 71 of the Turkish Labour Law entitled "Working age and restrictions on the employment of children" was the main governing legislation on this issue, which prohibited employment of children who had not completed the age of 15.

144. However, children who had completed the full age of 14 and their primary compulsory education could be employed in light work that would not hinder their physical, mental and moral development, and for those who continue their education, in jobs that would not prevent their school attendance.

145. Children who had not completed the full age of 14 may be employed in the artistic, cultural and advertising activities that would not hinder their physical, mental and moral development and that would not prevent their school attendance, on

condition that a written contract was made and permission was obtained for each activity separately.

146. The working time of children who had completed their compulsory primary education and who were no longer attending school would be no more than seven hours daily and 35 hours weekly; and for the children who were employed in the artistic, cultural and advertising activities, working time would not be more than 5 hours daily and 30 hours weekly. However this working time may be increased up to 40 hours weekly for the children who had completed their 15 years.

147. The Representative of Turkey underlined that the permitted duration of daily seven hours and weekly 35 hours concerned only the children who had completed their compulsory primary education. Maximum allowed working time for those below the age of 14 (which practically means those who continue their compulsory education) would not be more than 5 hours daily and 30 hours weekly in school holidays.

148. The GC took note of the information provided and invited the Government of Turkey to include all the necessary information in the next report. In particular the age of compulsory education in Turkey should be clarified as well as the working hours of children still in compulsory education. The GC decided to await the next assessment of the ECSR.

RESC 7§3 UKRAINE

The Committee concludes that the situation in Ukraine is not in conformity with Article 7§3 of the Charter on the grounds that the duration of working time for children aged 16-18 who are still subject to compulsory education is excessive and therefore cannot be qualified as light work.

149. The Representative of Ukraine provided information regarding the education system. The full (complete) general secondary (non-professional) education lasted 11 years and included 3 levels:

- primary school (1-4 grades);
- basic secondary school (5-9 grades) that provides basic general secondary education. The pupils are awarded the Certificate of Basic General Secondary Education that allows the graduates to either continue education at senior (upper) secondary school or to pursue vocational education;
- upper secondary school (10-11 grades) that provides full general secondary education.

150. Article 51 of the Labour Code of Ukraine stipulated that the duration of working time for employees aged 16-18 is 36 hours per week. Working time for pupils aged 16-18 during school term is 18 hours per week (3.6 hours per day).

151. The Secretariat explained that according to the ECSR case law employment of children, still subject to compulsory education should be limited to 30 hours per week and 6 hours per day during school holidays. If children aged 16-18 were no longer in compulsory education, then the ECSR accepted a working week of 36

hours. As regards 3.6 hours per day during school term, the ECSR also considered it excessive.

152. The Representative of Ukraine stated that the Government was ready to bring the situation into conformity and the necessary amendments would be made to the legislation.

153. The GC took note of the information provided, asked the Government to remedy the situation and provide all the necessary information in the next report. The GC decided to await the next ECSR's assessment.

Article 7§5 – Fair pay

RESC 7§5 ARMENIA

The Committee concludes that the situation in Armenia is not in conformity with Article 7§5 of the Charter on the ground that the young workers' wages are not fair.

154. The situation is not in conformity on this ground for the first time.

155. The Representative of Armenia said that between 2013 and 2015 the minimum wage as well as the average wage increased by 22 %. She added that as of January 2016 the monthly minimum wage stood at 40.5% of the average wage (which was previously set at 30%).

156. The GC took note of the information provided and decided to await the next assessment of the ECSR.

RESC 7§5 AZERBAIJAN

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 7§5 of the Charter on the ground that the young workers' wages are not fair.

157. The situation is not in conformity on this ground since Conclusions 2011. On the previous occasion, the Representative of Azerbaijan provided written information (Detailed report concerning Conclusions 2011, § 134).

158. The Representative of Azerbaijan said that the national Labour Code prescribed that there was no difference in the minimum wage of both adult and young workers. She added that in January 2016 the minimum wage had increased by 10% and by today the monthly minimum wage stood at 41% of the average wage.

159. The GC took note of the information provided and decided to await the next assessment of the ECSR.

RESC 7§5 ROMANIA

The Committee concludes that the situation in Romania is not in conformity with Article 7§5 of the Charter on the ground that young workers' wages are not fair.

160. The situation is not in conformity on this ground since Conclusions 2006. On the previous occasion, the Representative of Romania provided written information (Detailed report concerning Conclusions 2011, §169).

161. The Representative of Romania said that by the beginning of the year 2016 the monthly minimum wage stood at 46.6% of the average wage. This percentage was the result of a continued increase of the minimum wage since 2011. She added that the minimum wage was the same irrespective of age.

162. The Representative of Romania provided information on the outlook of the economic development as provided by the European Bank for Reconstruction and Development as well as of the International Monetary Fund. Both institutions foresaw a continued positive economic development in the years ahead with GDP forecasts of about 3.5% per year.

163. Against this background, the Representative of Romania expressed hope that the positive trend in increasing yearly the minimum wage could be maintained in the years to come.

164. The GC took note of these positive developments and encouraged the Government for Romania to continue its efforts. The GC decided to await the next assessment of the ECSR.

RESC 7§5 UKRAINE

The Committee concludes that the situation in Ukraine is not in conformity with Article 7§5 of the Charter on the ground that the young workers' wages are not fair.

165. The situation is not in conformity on this ground for the first time.

166. The Representative of Ukraine recalled that her country was currently in a very difficult situation due to the continued armed conflict in Eastern Ukraine. Social standards including the minimum wage had initially been frozen at the level of January 2014. With the overall situation somewhat stabilised, social standards including minimum wages had been increased by 13% this year. She ensured that taking into account its financial capacities the Government of Ukraine took all the appropriate measures to maintain social standards and wages fair.

167. The GC took note of the information provided and decided to await the next assessment of the ECSR.

Article 7§10 – Special protection against physical and moral dangers

RESC 7§10 ESTONIA

The Committee concludes that the situation in Estonia is not in conformity with Article 7§10 of the Charter on the ground that children between 14 and 18 years of age are not effectively protected against all forms of sexual exploitation.

168. The situation is not in conformity on this ground for the first time.

169. The Representative of Estonia stated that Estonia had criminalized all child pornography offences that were covered in Articles 175, 178 and 179 of Penal Code.

170. As regards more specifically child pornography, according to the current wording of the § 178 (1) of the Penal Code manufacture, acquisition or storing, handing over, displaying or making available to another person in any other manner, pictures, writings or other works or reproductions of works depicting a person of less than 18 years of age in a pornographic situation, or a person of less than 14 years of age in a pornographic or erotic situation, was punishable by a pecuniary punishment or up to three years' imprisonment.

171. The Representative of Estonia underlined that this provision of the law should not be understood as implying that children 14-18 years of age could be used in child-erotic materials. It rather provided for a heightened protection against sexual exploitation of children by differentiating between the cases where children took their own erotic pictures and the cases where an adult was involved. It intended not to criminalise the situations where children 14-18 years of age took their own pictures or asked a friend to take their picture in a 'provocative' pose, not necessarily involving nudity. According to the Representative of Estonia, this kind of interaction in the age group 14-18 could be a part of their sexual development and should not be punished.

172. However, if there was some sort of influence or coercion exerted on the child between 14 - 18 years of age, child-erotica would be criminalized and then the age limit was 18 years of age for all the acts.

173. The Secretariat noted that the national report did not describe the situation with sufficient clarity and more precisions were called for regarding the specific situation of the Estonian law which made a distinction between erotic and pornographic depictions of a child aged 14-18 as well as the participation of an adult in producing such material, whether through coercion or through voluntary engagement of children.

174. The GC took note of the information provided, asked the Government of Estonia to include all the necessary information in the next report and decided to await the next assessment of the ECSR.

RESC 7§10 UKRAINE

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

- *child prostitution is only criminalised until the age of 16;*
- *child pornography is not criminalised until the age of 18;*
- *simple possession of child pornography is not a criminal offence.*

175. This situation is not in conformity on these grounds since Conclusions 2011. On the previous occasion the Representative of Ukraine indicated that steps would be taken to remedy the situation of non-conformity. The GC had not taken any steps but urged the Government of Ukraine to bring its legislation into conformity with the Charter.

1st and 3rd ground of non-conformity

176. The Representative of Ukraine informed the GC that as regards criminalisation of child prostitution and simple possession of child pornography the Ministry of Social Policy had created a special Working Group to address the violations of the Charter regarding Article 7§10. The Working Group consisted of Representatives of the Governmental agencies, NGOs, the National Academy of Prosecutors of Ukraine and UNICEF.

177. The draft Law of Ukraine “On Amendments to Some Laws of Ukraine on Protection of Children from Sexual Abuse and Sexual Exploitation" had been prepared and provided for relevant amendments to the Criminal Code of Ukraine, the Code of Ukraine on Administrative Offences, the Law of Ukraine "On Protection of Childhood" and the Law of Ukraine on “Social Work with Families, Children and Youth." The draft law was discussed at the meeting of the Working Group in April 2016.

2nd ground of non-conformity

178. As regards the non-conformity in respect of child prostitution until the age of 18, the Representative of Ukraine questioned the conclusion of the ECSR. She explained that in fact paragraph 4 of Article 301 of Criminal Code of Ukraine, which made reference to paragraph 1 of Article 301, provided for criminal liability for the production of works, images and other pornographic material containing child pornography, in cases where coercion is exerted on a child for producing such materials, as well as in cases where a child him/herself consents to producing such materials and regardless of whether the child was paid for the services.

179. The Secretariat explained that the second ground of non-conformity with the Charter was based on the fact that the wording of paragraph 4 of Article 301 of the Criminal Code did not provide sufficiently clear safeguards against those situations where the child voluntarily engaged in the production of pornographic material or was paid to do so.

180. The Representative of Ukraine noted that her Government and in particular the National Academy of Prosecutors, who were members of the Working Group did not agree with this interpretation. She expressed hope that this issue could be clarified at the meeting that would be organized in 2016 with the ECSR.

181. Several Representatives observed that despite the fact that the Government had taken steps to bring the situation into conformity by setting up a Working Group and despite the fact that a draft law to amend the current legislation had been prepared, no real change had taken place and the efforts had not been sufficient.

182. The GC decided to vote on a Recommendation on all three grounds of non-conformity, which was not carried (17 in favor, 11 against). The GC then voted on a warning which was carried (29 in favor and 3 against).

183. The GC urged the Government of Ukraine to take measures to remedy the violation of the Charter and include all the necessary information in the next report. The GC decided to await the next assessment of the ECSR.

Article 8§1 – Maternity leave

RESC 8§1 AZERBAIJAN

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 8§1 of the Charter on the ground that interruptions in the employment record are not taken into account in the assessment of the qualifying period required for entitlement to maternity benefits.

184. The situation is not in conformity on this ground since Conclusions 2011. On the previous occasion, the Representative of Azerbaijan provided written information indicating that a Draft Law “On amendments to Law on Social Insurance” was to be elaborated and submitted to relevant state agencies to remedy the violation (Detailed Report concerning Conclusions 2011, §280).

185. The Representative of Azerbaijan recalled that maternity benefits were contributory benefits. Accordingly, under the "Regulations on calculation and payment of social insurance benefits and temporary disability benefits paid at the expense of an insurer", a worker was entitled to maternity benefits if she had at least 6 months of total social insurance record.

186. The Representative of Azerbaijan pointed out that under the current legislation (in particular, Article 21§2 of the Law on Employment), interruptions in the employment record of a woman, such as periods of receipt of pension or unemployment benefits, periods of engagement in paid public works or periods of lawful employment abroad, were included in the general labour record of a person and therefore taken into account in the assessment of the qualifying period required for entitlement to maternity benefit.

187. The GC took note of the information provided. The GC invited the Government of Azerbaijan to include it in its next report together with details about the relevant legislation, and decided to await the ECSR’s next assessment.

RESC 8§1 BOSNIA AND HERZEGOVINA

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 8§1 of the Charter on the ground that maternity benefits are not adequate or not provided for in certain parts of the country.

188. The situation is not in conformity on this ground since Conclusions 2011.

189. On the previous occasion, the Representative of Bosnia and Herzegovina provided written information (Detailed Report concerning Conclusions 2011, §281).

190. The Representative of Bosnia and Herzegovina explained in detail the legislation applicable respectively at state level (Bosnia and Herzegovina institutions)

and at sub-state level, in the Federation of Bosnia and Herzegovina, the Republika Srpska and the Brčko District.

191. As regards the ECSR conclusion of non-conformity, she indicated that the Federation of Bosnia and Herzegovina had recently adopted a new Labour Law (published on 6 April 2016), which provided that during maternity leave an employee was entitled to compensation in accordance with the Law on Social Protection, Protection of Civil War Victims and Families with Children.

192. The Representative of Bosnia and Herzegovina confirmed that the conditions, methods, procedures, authorities and financing of entitlement under Article 89, paragraph 2, of the abovementioned Law were regulated by cantonal legislation and that the payment of maternity benefits depended on the funds earmarked in the cantonal budgets. In particular, the Representative of Bosnia and Herzegovina confirmed that maternity benefits corresponding to less than 70% of the average salary were paid in certain cantons (Una-Sana, Middle Bosnia, Sarajevo) whereas the issue was still to be regulated in other cantons (Posavina, Herzegovina-Neretva).

193. The Representative of Bosnia and Herzegovina acknowledged that the current legal framework and decentralized approach did not ensure equality in the exercise of maternity entitlements in the Federation of Bosnia and Herzegovina, since the cantons tackled these issues differently and did not have the same financial opportunities for granting the rights established by the Law on Social Protection, Protection of Civilian Victims of War and Families with Children. She confirmed however the authorities' intention to improve the system and eliminate the shortcomings observed, so as to ensure equal rights and opportunities for all. In this connection, she indicated that the Ministry of Labour and Social Policy of the Federation of Bosnia and Herzegovina was tasked to review the issue.

194. Replying to a question by the Representative of Sweden, the Representative of Bosnia and Herzegovina explained that the legislation at state level concerned public servants in Bosnia and Herzegovina institutions, while the situation of other employees was regulated by the legislation applicable in the different entities or cantons.

195. In response to a question by the Representative of Lithuania, she stated that the maternity benefits for public service employees would be 70% of their salary.

196. The GC took note of the information and explanations provided and invited the Government of Bosnia and Herzegovina to include the updated information in its next report. The GC asked the Government of Bosnia and Herzegovina to take the necessary measures to remedy the situation and decided to await the ECSR's next assessment.

RESC 8§1 SLOVAK REPUBLIC

The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 8§1 of the Charter on the ground that the level of maternity benefits is inadequate.

197. The situation is not in conformity on this ground since Conclusions 2011. On the previous occasion, the Representative of the Slovak Republic provided written information (Detailed Report concerning Conclusions 2011, §283).

198. The Representative of the Slovak Republic indicated that, as of 1 January 2016, the Act 461/2003 on Social Insurance was amended to increase the maternity benefit. As a result, the level of benefit was raised at 70% of the person's previous salary thus bringing the situation in conformity with the Charter.

199. The GC congratulated the Government of the Slovak Republic for these positive developments and invited it to include this information in its next report. The GC decided to await the ECSR's next assessment.

RESC 8§1 TURKEY

The Committee concludes that the situation in Turkey is not in conformity with Article 8§1 of the Charter on the ground that the level of maternity benefits provided to women employed in the press sector is not adequate.

200. The situation is not in conformity on this specific ground for the first time.

201. The Representative of Turkey confirmed that the Press Labour Law derogated from the general regime set by Turkish Labour Law and that the level of maternity benefits for women employed in the press sector was inadequate as it corresponded to 50% of their salary. He indicated however that the workers concerned might be entitled to other forms of compensation, from insurance or other organisations they were affiliated to.

202. He also indicated that an information document would be transmitted to the competent Ministry and related authorities in view of a possible legislative revision. He noted in this respect that the Press Labour Law did not seem to be in line with the recent developments in the related legislation, which had improved the level of maternity benefits, and that the difference between a general law and a more special law like the Press Labour Law seemed contrary to the equality principle in Turkish Constitution.

203. The GC took note of the information provided and asked the Government of Turkey to take the necessary measures to remedy the situation. The GC invited the Government of Turkey to include the updated information in its next report and decided to await for the ECSR's next assessment.

Article 8§2 - Illegality of dismissal during maternity leave

RESC 8§2 BOSNIA AND HERZEGOVINA

The Committee concludes that the situation in Bosnia Herzegovina is not in conformity with Article 8§2 of the Charter on the ground that:

- *in the Federation of Bosnia and Herzegovina there is no adequate protection against dismissal of employees during pregnancy or maternity leave;*

- *……..;*
- *in the District of Brčko, adequate compensation is not provided for in cases of unlawful dismissal during pregnancy or maternity leave.*

204. The situation is not in conformity on all three grounds for the first time.

1st ground of non-conformity

205. The Representative of Bosnia and Herzegovina informed the GC that the Federation of Bosnia and Herzegovina published a new labor law on 6 April 2016 to treat the protection of employee dismissal during pregnancy or maternity leave in a different way.

206. Namely, Article 60(1) of the Law determined that an employer may not refuse to employ a woman because of her pregnancy, nor may the employer cancel the employment contract during pregnancy or maternity leave or while she was working part-time after maternity leave up to three years of the child's age, and during leave for breastfeeding.

207. The same provision provided for a general ban to be extended to any employee exercising these rights. The Labour Law prescribed that the entitlement to maternity leave, the entitlement to part-time work after maternity leave up to three years of the child's age, may be enjoyed by the father of the child, an adoptive parent or a person entrusted to take care of the child in a decision of the competent authority.

208. General protection in employment including entitlements during pregnancy or maternity leave was provided for in Article 114 of the Labour Law. Article 106 of the Labour Law generally established the rights of workers in case of wrongful dismissal. In the event that the court ruled that the cancellation was illegal, it may order the employer to reinstate the employee, if the employee so requested, in his or her previous employment or in comparable employment and to pay the compensation for lost salary and other damages suffered or the severance allowance to which the employee was entitled to.

209. The amount of damages in case of wrongful dismissal was determined in the proceedings before the court according to the general rules for compensation which did not specify the maximum amount of the damages. The proceedings for pecuniary and non-pecuniary damages were conducted before the same court and whether it would rule or not on both types of damages was decided on a case-by-case basis. Given the Labour Law governed employment matters as lex generalis and Article 47 of the Law on Civil Service of the Federation, which defined the employment status of civil servants in the Civil Service of the Federation of Bosnia and Herzegovina, invoked the application of the Labour Law, illegality of dismissal during pregnancy and maternity leave of employees both in the private and public sector was governed by the same legal framework.

3rd ground of non-conformity

210. Concerning the third ground of non-conformity the Representative of Bosnia and Herzegovina said that the Labour law of Brcko District would eliminate the established discrepancy by amending the Law on Civil Service in Public Administration to bring the provisions on the protection of motherhood in line with Article 8 of the Charter with regard to the prohibition of dismissal of an employee from the time she notified her employer that she was pregnant until the end of maternity leave or to dismiss her at such a time that the notice would expire during that period.

211. The GC took note of the positive developments concerning the first and second ground of non-conformity with the introduction of the new labor law published on 6 April 2016. Concerning the third ground of non-conformity, the GC encouraged the Government of Bosnia and Herzegovina to finalize as soon as possible the amendment to the Law on Civil Service in the Public Administration of the Brcko District in order to bring the law on the protection of motherhood in line with Article 8 of the Charter also in this district. The GC decided to await for the next assessment of the ECSR.

RESC 8§2 LITHUANIA

The Committee concludes that the situation in Lithuania is not in conformity with Article 8§2 of the Charter on the ground that:
exceptions to the prohibition of dismissal of employees during pregnancy or maternity leave are excessively broad.

212. The situation is not in conformity on this ground for the first time.

213. The Representative of Lithuania said that the Government of Lithuania had in April 2016 in Vilnius a meeting with the ECSR on non-accepted provisions of the European Social Charter. It took this opportunity to clarify and discuss also this specific ground of non-conformity.

214. The Representative of Lithuania said that pursuant to Article 132 of the Labour Code, which applied both to the private and public sector, a pregnant woman may not be dismissed from the day she notified her employer of her pregnancy and until a month after the expiry of her maternity leave, except in a number of cases defined in Article 136 of the Labour Code.

215. The legal grounds for the dismissal were very exceptional, rare and applied to all employees. The situations referred to under Article 136 of the Labour Code were related to misconduct of employee justifying breaking off the employment relationship as for example in the case of loss of a driving licence for a public transport employee.

216. Consequently, the Government of Lithuania considered that legal grounds for the dismissal of an employee during pregnancy and maternity leave are very restricted and hardly applied in practice.

217. The GC took note of the positive developments, in particular the introduction of a new Labour Code. The GC decided to await the next assessment of the ECSR.

RESC 8§2 TURKEY

The Committee concludes that the situation in Turkey is not in conformity with Article 8§2 of the Charter on the ground that:

- *there is no adequate protection in the Labour Act against unlawful dismissals during pregnancy or maternity leave;*
- *not all employed women are entitled to reinstatement in case of unlawful dismissal during pregnancy or maternity leave;*

218. Concerning the 1st ground of non-conformity the situation is not in conformity for the first time. Concerning the 2nd ground of non-conformity the situation is not in conformity since Conclusions 2011.

1st and 2nd ground of non-conformity

219. The Representative of Turkey said that his Government was planning to start a technical overview of the situation. A report would be prepared on all non-conformity Conclusions of the ECSR and put forward to the related public authorities and social partners for assessing the feasibility of the steps to be taken in order to improve the legislation in the light of the ECSR Conclusions.

220. The Representative of Turkey said that the grounds of non-conformity were mainly based on the fact that the Turkish Labour Law provided lesser protection to the employees with an open-ended contract, who have been working for less than six months in an enterprise or worked in an enterprise employing less than thirty people. He pointed out that the lack of protection for women during pregnancy or maternity leave as concluded by the ESCR was not categorical. It was rather related to the general regime provided by the Turkish Labour Law for all employees in cases of termination of employees.

221. The Representative of Turkey stressed that dismissal based on pregnancy and maternity leave was explicitly banned by law as outlined in the report. The Representative of Turkey said that this specific conclusion of non-conformity must be assessed merely under the Article 24 of the Charter on the right to protection in cases of termination of employment.

222. The Representative of Turkey said that the lesser protection to these categories of employees (in this case to the employees with an open-ended contract, who have been working for less than six months in an enterprise or work in an enterprise employing less than thirty people) was in accordance with ILO Convention 158, which had also been ratified by Turkey. According to this Convention, a category of workers may be left out of the coverage of whole or part of the provisions of job security in terms of private employment conditions of the workers or of the size or quality of the enterprise where there were vital problems.

223. The Turkish Representative said that the national report prior to the 2011 Conclusions had already this information included. In 2015, the ECSR had replied in its Conclusions that it would not judge the conformity of the Charter with other international instruments.

224. The Representative of Turkey pointed out that in this specific case the Turkish Labour Law was in accordance with the international instrument of one of the most respected international organizations, namely the ILO as a specialized agency of United Nations devoted to promoting social justice.

225. Finally the Representative of Turkey questioned the interpretation of the ECSR. The ECSR should consider to take into account of provisions of other international instruments, particularly in the situations where there were no explicit provisions in the original text of the Charter.

226. The Secretariat said that this particular ground of non-conformity looked at the specific category of workers called “pregnant women” which were given a specific protection by the Charter in Art. 8§2. This provision could not be seen under the more general protection of dismissal as provided under Article 24 of the Charter.

227. The Secretariat continued that Art.8§2 provided specific protection against dismissal to all employed women during the whole period of pregnancy, from the time of notification to the child birth. It was also the intention to cover all categories of employees including fixed term contracts.

228. The ETUC Representative reminded the Turkish Representative in relation to the second ground of non-conformity, that there had already been an intervention by the Turkish Representative in 2011 which informed the GC that there was an on-going evaluation to assessing the feasibility of the steps to be taken in order to improve the legislation in the light of the ECSR Conclusions. The ETUC Representative asked if the said evaluation had been carried out and which result it obtained.

229. The Turkish Representative replied that this evaluation was still on-going.

230. The GC took note of the information provided. In relation to the second ground of non-conformity, the GC sent a strong message to the Turkish Government with a view to bringing back the situation into conformity. The GC decided to await the next assessment of the ECSR.

Article 16 - The right of the family to social, legal and economic protection

231. The Secretariat pointed out that, with respect to article 16, although there might be in certain countries more grounds of non-conformity, the European Committee of Social Rights decided to select only one specific ground of non-conformity: equal treatment of foreign nationals and stateless persons with regard to family benefits.

RESC 16 AUSTRIA

The Committee concludes that the situation in Austria is not in conformity with Article 16 of the Charter on the ground that equal treatment for nationals of the other States Parties with regard to the payment of housing subsidies is not ensured (nationality, length of residence requirements).

232. The Secretariat said that the situation was not in conformity on this ground for the first time.

233. The representative of Austria said that could inform the GC on some positive developments taking place on this case of non-conformity.

234. The representative of Austria explained that the nine Austrian provinces (or Länder) were responsible for the legislation and enforcement in the field of direct support for housing construction and refurbishment through subsidized loans, annuity and interest subsidies and for the general housing allowance.

235. Pursuant to legislative changes, the situation in seven out of nine provinces seemed to be in conformity with the Charter. The Housing Subsidies Acts of Burgenland, Carinthia, Upper Austria, Styria, Salzburg, Tyrol and Vorarlberg provide for equal treatment of foreign nationals who were entitled to the same rights as Austrian citizens on the basis of an international treaty. Since the European Social Charter is such an international treaty, this legislative change has now solved the problem in these seven provinces.

236. The representative of Austria pointed out that this is new information as compared to the last report regarding Tyrol and Salzburg, where the legislative changes took place after the reference period.

237. Moreover, as far as three other provinces were concerned, namely Carinthia, Styria and Upper Austria, there seemed to be a misunderstanding because the information on the provision providing for equality of treatment of nationals of the other States Parties in the respective Acts of these provinces was already given in the last report.

238. However, there remained two provinces, which still differentiated at least up to a certain extent between Austrians and EEA-nationals on the one side and third country nationals who are nationals of other State Parties on the other side.

239. The legal situation in Lower Austria was a complex one, but equality of treatment of nationals of other States Parties was guaranteed in the following areas: a) there are no restrictions on renting dwellings owned by not-for-profit building companies or municipalities; b) there are similarly no restrictions in subsidies for the refurbishment of owner-occupied dwellings and housing.

240. In Vienna, foreign and Austrian citizens could make use of housing subsidies for the purpose of housing construction or refurbishment on the same basis.

241. The same applied to equity surrogate loans (Eigenmittelersatzdarlehen). Both Austrian and foreign nationals may claim a 1% equity surrogate loan from the City of Vienna for making an advance payment of the land and construction costs upon the acquisition of a subsidized flat.

242. In Lower Austria and in Vienna a distinction was still made, however, in the context of the housing allowance.

243. Whether a housing allowance was granted or not always depended on family size, family income, and size of the accommodation and housing costs.

244. In Lower Austria and in Vienna nationals of other States Parties from outside the EEA were eligible to this allowance only after completion of a legitimate residence period of five years in Austria.

245. Lower Austria and Vienna were both provinces with a high percentage of foreigners. In Vienna e.g. around 286 000 people have a passport of a non-EU/EEA-state.

246. Since available funding was limited, there were at present no plans to further expand the eligibility criteria for the housing allowance in these two provinces.

247. Finally, the representative of Austria said that Austria was in compliance with this provision of the Charter already to a very great extent; 7 provinces were fully in compliance with Article 16 and 2 provinces were partly in compliance because equal treatment for nationals of other States Parties was ensured with regard to most of the housing subsidies.

248. The GC took note of the positive developments taking place in Austria in 7 provinces and encouraged the Austrian government to take the necessary steps to put in to conformity the situation also in the remaining two provinces. It decided to await the ECSR's next assessment.

RESC 16 AZERBAIJAN

The Committee concludes that the situation in Azerbaijan is not in conformity with Article 16 of the Charter on the ground that equal treatment for nationals of other States Parties regarding the payment of family benefits is not ensured because the length of residence requirement is excessive..

249. The Secretariat said that the situation was not in conformity on this ground for the first time.

250. The representative of Azerbaijan made an introduction on specific articles of the Azeri Constitution. She said that according to Article 17 of the Constitution of the Republic of Azerbaijan family as a cornerstone of society was under special protection of the state.

251. During 2013-2015 thousands of families in the country received targeted state social assistance. For this purpose, 206.2 million manat were allocated from the state budget annually during the period 2013-2015.

252. According to Article 31 of the Constitution of the Republic of Azerbaijan, except cases envisaged by the law, it was prohibited to attempt on anybody's life, physical and spiritual health, property, living premises and to commit acts of violence. At the same time, everyone had the right for inviolability of residence in accordance with Article 33 of the Constitution. Except the cases specified by law or order of the court, nobody had the right to enter private home without the consent of

its inhabitants. According to Article 43 of the Constitution nobody might be deprived illegally of his apartment.

253. In accordance with the decree # 569 signed by the President of Azerbaijan on June 20, 2014 on "Additional measures to improve the social and living conditions of martyr's families and those who have become disabled for the territorial integrity, sovereignity and constitutional order of the Republic of Azerbaijan" persons in need of improved housing conditions registered as such with local bodies of executive power as of January 1, 2014 will be provided with apartments or single-family houses by the Ministry of Labour and Social Protection of Population during 2014-2018. About 234 people in this category were provided with housing during 8 months of 2016. In total, 5466 families of martyrs and people with disabilities were provided with houses by the Ministry of Labour and Social Protection of Population in the period1997-2016. Out of them, 1975 persons were Karabakh war veterans and martyrs' families, others were Chernobyl veterans and other eligible citizens equated with war veterans.

254. On 11 April 2016, the President of the Republic of Azerbaijan signed a Decree on the establishment of the State Agency for Housing Construction under the President of Azerbaijan. The State Agency for Housing Construction would create conditions for the citizens of the Republic of Azerbaijan particularly for low-income families to meet their need in residential spaces and grant preferential access to housing.

255. According to Article 52 of the Migration Code of the Republic of Azerbaijan, foreigners and stateless persons temporarily settled in the territory of Azerbaijan Republic for at least 2 years on the basis of the relevant permit can apply for a permanent residence permit. Foreigners who have permanent residence permit in the Republic of Azerbaijan, have equal rights with the Azerbaijani citizen and get acces to social benefits.

256. The representative of Azerbaijan said that in accordance with Chapter 2 of the Law on the Status of Refugees and Internally Displaced Persons of the Republic of Azerbaijan a person who came to the Republic of Azerbaijan for a temporary and permanent residence could apply to the relevant authorities for a refugee status. The decision on granting the refugee status was made by the appropriate executive authority of the Republic of Azerbaijan within 3 months from the date of registration of applications for the refugee status. Refugees enjoy rights and freedoms of the citizens of the Republic of Azerbaijan and also had the same obligations. The refugees had the right to receive lump sum and other benefits granted by the state, had right to free-of-charge use of living place at the temporary accommodation settlement until they were provided with work place and housing but no more than 3 months. They could choose their jobs freely.

257. The Secretariat pointed out that the legislation had not changed and therefore the length of residence requirement of 2 years before getting access to the payment of family benefits was not considered to be in conformity by the Charter.

258. The GC took note of the information provided and asked the government of Azerbaijan to provide additional information in the next report. The GC asked the

government of Azerbaijan to remedy the situation and decided to await the next ECSR's assessment.

RESC 16 BOSNIA AND HERZEGOVINA

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 16 of the Charter on the ground that equal treatment of foreign nationals of other States Parties who are lawfully resident or regularly working with respect to family benefits is not ensured.

259. The Secretariat said that the situation was not in conformity since Conclusions 2011.

260. The representative of Bosnia AND Herzegovina said that about equal treatment of foreign nationals, the conditions for permanent residence in Bosnia and Herzegovina were prescribed by the new Law on Foreigners which the Parliamentary Assembly of Bosnia and Herzegovina had adopted in 2015.
261. Article 79 of the Law on Foreigners provided the conditions for granting permanent residence. A permanent residence permit would be issued to an alien on the following conditions: That he/she had resided on the territory of Bosnia and Herzegovina on the basis of a temporary residence permit for at least five years uninterruptedly prior to submitting the application for issuance of a permanent residence permit, that he/she had sufficient and regular funds in order to support himself/herself, that he/she had confirmed adequate accommodation, that he/she had confirmed health insurance, knew one of the official languages and alphabets and that he/she was not subject to criminal proceedings and had not been convicted of a criminal offense.

262. Due to the Agreement on Stabilisation and Association Agreement, Bosnia and Herzegovina would harmonize its legislation with EU legislation. Provisions in the Article 79 of the same Law, regarding the temporary residence permit for at least five years uninterruptedly prior to submitting the application for issuance of a permanent residence permit complied with the Directive and EU Council's Regulation.

263. Bearing in mind the above, the representative of Bosnia and Herzegovina stressed out that considering the current economic situation and legal framework it was not possible to change the status quo and bring the situation into conformity.

264. The Secretariat recalled that according to the ECSR case law, six months was considered an acceptable period before getting access to payment of family benefits. Therefore the situation in Bosnia Herzegovina, which asked for five years of permanent residency, was not in conformity.

265. In the ensuing discussion the GC decided to vote for a recommendation (which was not carried, 0 in favor and 30 against) and then on a warning (which was not carried either, 3 in favor and 26 against).

266. The GC sent a strong message to the government of Bosnia and Herzegovina to bring back the situation in to conformity with the Charter and decided to await the next ECSR's assessment.

RESC 16 HUNGARY

The Committee concludes that the situation in Hungary is not in conformity with Article 16 of the Charter on the ground that equal treatment for nationals of other States Parties with regard to family benefits is not ensured because the length of residence requirement is excessive.

267. The Secretariat said that the situation was not in conformity since Conclusions 2011.

268. The representative of Hungary said that regarding the conclusion of the ECSR, Hungary maintained its position which had been outlined in the 2014 report.

269. The representative of Hungary explained that the personal scope of the Family Support Act had been modified recently. As of 1 January 2014 third country nationals – besides third country nationals with either permanent residence permit or EU blue card – were entitled to family support benefit, if they resided with a single permit in Hungary, provided that the employment was authorized for a period exceeding six months.

270. In summary, those persons who were neither citizens of an EU member state nor citizens of the member state of the agreement on the European Economic Area nor Swiss citizens without the right of establishment might be entitled to benefits subject to the Family Support Act in the following cases:

- As of 1 January 2008 a prior period of residence was not required as a proof either from the family members of the Hungarian citizens or EEA citizens.
- As of 1 January 2011 in case of the maternity benefit under the Family Support Act – in order to protect the health of the children and the mothers – the personal scope of the Family Support Act was extended. Within the meaning of the amendment, all women could have maternity allowance who resided lawfully in the territory of Hungary and took part in prenatal care at least four times during pregnancy – at least once in case of premature childbirth. In this case, there was no requirement for prior residence either.
- As of 1 January 2012 third country nationals with EU Blue Card might also obtain benefits under the Family Support Act without prior residence requirement.
- As of 1 January 2014 third country nationals with a single permit might obtain benefits under the Family Support Act without prior residence requirement, if the employment permit was issued a for period longer than 6 months.

271. The extension of the personal scope of the Family Support Act to persons with single permit resulted in that third country nationals residing for a period exceeding six months in the territory of Hungary for employment purposes might qualify for benefits under the Family Support Act.

272. The representative of Hungary concluded by saying that taking into account the above mentioned changes in the Hungarian legislation, Hungary complied with the requirements set out in Article 16 of the Charter.

273. The GC took note of the positive developments taking place in Hungary with the introduction of the new legislation since 1 January 2014, which brought back the situation into conformity. The GC congratulated the Hungarian government for this encouraging development and decided to await the next ECSR's assessment.

RESC 16 LATVIA

The Committee concludes that the situation in Latvia is not in conformity with Article 16 of the Charter on the ground that equal treatment for nationals of other States Parties regarding the payment of family benefits is not ensured because the length of residence requirement is excessive.

The situation is not in conformity on this ground for the first time.

274. The Secretariat said that the situation was not in conformity on this ground for the first time.

275. The representative of Latvia said that as the benefits based on residence were mostly accessible to EU nationals, the Republic of Latvia currently addressed the issues in an Informative report (Concept paper). It must be underlined that some work had already been reassessed and carried out in the field of pensions, enabling to establish less formal criteria (not based only on the type of residence permit, but on actual residence) also for family benefit entitlements. To broaden the personal scope, during the reference period, starting from May 2016 the Ministry of Welfare of the Republic of Latvia started to elaborate the Informative Report "Comprehensive Analysis of Social Security Benefits".

276. The representative of Latvia said that the Informative Report aimed at proposing several amendments, also concerning family benefits, including proposing amendments to the Law on State Social Allowances. If these draft amendments would be supported by the Government they would be submitted to the Parliament (Saeima). It was expected that based on the amendments to the Law on State Social Allowances, family benefits will be accessible to all persons who had lawful rights to reside and who were lawfully residing in Latvia, if they met certain criteria (for example – residing permanently in the territory of Latvia for not less than 2 years (acceptable also by the Charter) in order to be entitled to the respective family benefits.

277. In conclusion the representative of Latvia said that the next step to be undertaken was the discussion of the Informative Report with social partners and non-governmental organizations and its approval by the Cabinet of Ministers. It was planned to submit this report to the government at the beginning of 2017.

278. The GC took note of the information provided and the intention to make relevant changes in the legislation. It asked the government of Latvia to bring the situation back into conformity and decided to await the next ECSR's assessment.

RESC 16 LITHUANIA

The Committee concludes that the situation in Lithuania is not in conformity with Article 16 of the Charter on the ground that equal treatment for nationals of other States Parties with regard to the payment of family benefits is not ensured due to an excessive length of residence requirement.

279. The Secretariat said that the situation was not in conformity since Conclusions 2004, however on different grounds.

280. The representative of Lithuania confirmed that, as far as residence requirement was concerned, the situation had not changed since last conclusions 2011. A period of five years was still required for nationals of other States Parties, before having access to family benefits. However, the representative of Lithuania pointed out that, outside the reference period, some positive developments and changes were introduced in national legislation, namely the personal scope of the law on "child benefit" was enlarged to include third-country nationals with temporary permit to reside and who have been authorized to work, who are in employment or who have been employed for a minimum period of six months and who are registered as unemployed.

281. Moreover the representative of Lithuania announced that the government had planned to implement in 2016 the EU directive 2014/66 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer. Concerning the refugees and stateless persons the Lithuanian government had recently planned to implement a new EU regulation that would amend EU directive 2003/109 concerning the status of third-country nationals who were long-term residents.

282. The GC took note of the information provided and of some positive developments taking place in Lithuania. However, the situation remained unchanged as far as the residency requirement (five years of permanent residence before getting access to payment of family benefits) was concerned. Therefore the GC decided to await for the next ECSR's assessment.

RESC 16 NORWAY

The Committee concludes that the situation in Norway is not in conformity with Article 16 of the Charter on the ground that equal treatment for nationals of other States Parties regarding the payment of child benefit is not ensured because the length of residence requirement is excessive.

283. The Secretariat said that the situation was not in conformity on this ground for the first time.

284. The representative of Norway said that the according to his government the child benefit entitlement was in conformity with the requirements of the Charter, because the arrangement of their benefits system did not violate the rules of the Charter.

285. The representative of Norway said that the ECSR conclusions regarding the Norwegian system for child benefits must be based on a misinterpretation of the Norwegian system and regulations.

286. The representative of Norway pointed out that according to the Child Benefit Act, a child who came to Norway was regarded as living there if he/she had stayed for more than 12 months. This meant that the family was entitled to child benefit if they went to Norway and would stay there for at least 12 months. This did not mean that the family had to wait one year before they were entitled to child benefit. Rather,

it meant that the authorities considered the case and assessed whether it was likely or not that the family intended to stay in Norway for at least 12 months. If so, the family would receive child benefit starting the month following their arrival. This applied to all foreign nationals who were resident in Norway, registered on the Norwegian population register and who had a residence permit or had legal residence on other grounds. Moreover, if a person intended to stay in Norway for 12 months, then he/she was generally regarded as living in Norway. If the child was born in Norway after the parents were registered in the population register, the child benefit would be granted automatically.

287. In conclusion, the representative of Norway said that the Norwegian government requested the ECSR to reconsider its position on this matter because the Norwegian child benefit system ensured equal treatment of nationals of other States Parties.

288. The GC took note of the information provided and asked the Norwegian government to provide additional information on: a) criteria used to establish when a family intended to stay for at least 12 months in Norway; b) statistics on how many third country nationals' received entitlement to child benefit on this basis. The GC decided to await the next ECSR's assessment.

RESC 16 SERBIA

The Committee concludes that the situation in Serbia is not in conformity with Article 16 of the Charter on the ground that equal treatment for nationals of other States Parties regarding the payment of family benefits is not ensured.

289. The Secretariat said that the situation is not in conformity on this ground for the first time.

290. The representative of Serbia said that according to the Serbian social welfare law, beneficiaries of family benefits were nationals and also non-nationals in line with law and international agreements. Family benefits for foreigners were regulated by the recently adopted rulebook on social assistance for asylum seekers and persons recognized as such. Social assistance to asylum seeker was granted on a monthly basis, the threshold level was taken from the social welfare system of Serbia on the same basis used for Serbian nationals. A new law on financial support to families with children was planned. With regard to rights of foreigners, the main changes would be that family benefits might be granted to a mother, who was not national of Serbia and had a permanent residency in Serbia; in addition a family benefit might be granted also to the father of the child. In this draft law it was envisaged that foreign nationals working in Serbia might have child allowance and all other family benefits. The deadline for the adoption of this law was set at April 2017. The representative of Serbia said that the new amendments to the legislation would bring the situation into conformity with the Charter.

291. The GC took note of the information provided and decided to await the next ECSR's assessment.

RESC 16 SLOVAK REPUBLIC

The Committee concludes that the situation in Slovak Republic is not in conformity with Article 16 of the Charter on the ground that equal treatment for nationals of other States Parties regarding the payment of childbirth allowance is not ensured.

292. The Secretariat said that the situation was not in conformity since conclusions 2011.

293. The representative of the Slovak Republic said that the childbirth allowance was one time only allowance paid upon the birth of the child. However, the new Slovak government in office since May 2016 had declared that they would evaluate the criteria for entitlement to this allowance and that the condition of having a permanent residency would be abolished. Moreover, the representative of the Slovak Republic said that all foreigners legally present on the Slovakian territory were able to apply to all other allowances available paid on a monthly basis (family benefits, child benefit and bonus to child benefit).

294. The GC took note of the information provided and invited the government of the Slovak Republic to proceed with the changes envisaged in the new legislation. The GC decided to await for the next ECSR's assessment.

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

RESC 17§1 ARMENIA

The Committee concludes that the situation in Armenia is not in conformity with Article 17§1 of the Charter on the grounds that not all forms of corporal punishment of children are prohibited in the home.

295. The Secretariat said that the situation was not in conformity on this ground since Conclusions 2007.

296. The Representative of Armenia informed the GC that the new draft law on "Amendments to Family Code of the Republic of Armenia" had been developed and introduced to the Government for approval. With this draft law, Article 53 of the Code would be amended as follows: "while realizing the parental rights, the parents are not allowed to damage the physical and mental health of the children. The ways of upbringing should exclude corporal or psychological violence as a means of child upbringing, ignorant, cruel, violent attitude towards them, treatment humiliating human dignity, offence or exploitation. Parents who realize parental rights against the rights and interests of the children are accountable by the procedures established by law".

297. After the approval of the Government of Armenia the draft law would be introduced to the National Parliament for adoption.

298. The GC took note of the information provided, asked the Government to proceed with the approval of the draft law and decided to await the next assessment of the ECSR.

RESC 17§1 BOSNIA AND HERZEGOVINA

The Committee concludes that the situation in Bosnia and Herzegovina is not in conformity with Article 17§1 of the Charter on the ground that all forms of corporal punishment are not prohibited in the home in the Federation of Bosnia and Herzegovina and the Brčko District.

299. The Secretariat said that the situation was not in conformity on this ground since Conclusions 2011.

300. The Representative of Bosnia and Herzegovina informed the GC that in order to ensure full implementation of Article 17 of the European Social Charter, the Ministry of Human Rights and Refugees would initiate amendments to the Family Law, the Law on Social Protection, the Law on Domestic Violence, criminal law and the laws of health care in the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District, the Framework Law on Preschool Education and the Law on Sports with the aim of introducing an explicit prohibition of all forms of corporal punishment of children in all situations, in the private and public space.

301. According to the Representative of Bosnia and Herzegovina, the initiative will be agreed at the next session of the Council for Children of Bosnia and Herzegovina and then addressed to the respective governments.

302. The GC took note of the initiative to amend the legislation, asked the Government of Bosnia and Herzegovina to proceed with the amendment and decided to await the next ECSR's assessment.

RESC 17§1 REPUBLIC OF MOLDOVA

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 17§1 of the Charter on the ground that children can be taken into residential care due to material circumstances of the family.

303. The Secretariat said that the situation was not in conformity on this ground for the first time.

304. According to the Representative of the Republic of Moldova the Government continued to aim at reducing the number of children in institutions. The Strategy of Protection of Childhood of 2014-2020 and the Law on protection of children in precarious situations and children separated from families, which entered into force on 1 January 2014 represented the legal framework for protection of children.

305. The law established the procedure of identification, evaluation, assistance to children in vulnerable situations and children separated from families. Placement of children only took place in situations where keeping the child with the parents would be contrary to the best interests of the child. In case of separation, the priority was given to placement in family type services rather than institutions.

306. The Commissions for the protection of children in difficulty operated in each region and municipality to prevent non-justified placement of children in residential care. They form part of the process of deinstitutionalization of childcare.

307. According to the representative of the Republic of Moldova, the number of cases examined had increased 6 times since the establishment of the Commissions

in 2009. In the course of 2015 the Commissions examined the cases of 2904 families with 4701 children. The Commission had given its opinion to integrate 531 children in 387 families.

308. The representative of the Republic of Moldova also informed the GC that in the framework of the project on vulnerable children, social nurseries had been set up for children aged 4 months - 3 years with the aim of helping families in difficulty.

309. According to the representative of the Republic of Moldova, children had been separated from their families only in exceptional cases and only temporarily due to material difficulties experienced by the family and in each case these difficulties had not been the only and primary cause of separation. The cause of separation had always been a combination of different reasons.

310. In reply to the question of the Chair, the representative of the Republic of Moldova confirmed that material circumstances could not be the only ground of separation in the Republic of Moldova.

311. The GC asked the Government of the Republic of Moldova to provide in the next report information and evidence that the material difficulties experienced by families was not the only reason for placement of children and decided to await the next ECSR's assessment.

RESC 17§1 MONTENEGRO

The Committee concludes that the situation in Montenegro is not in conformity with Article 17§1 of the Charter on the ground that corporal punishment of children is not prohibited in the home and in institutions.

The situation is not in conformity on this ground for the first time.

312. The Secretariat said that the situation was not in conformity on this ground for the first time.

313. According to the Representative of Montenegro steps had been undertaken to remedy the violation regarding Article 17§1. She informed the GC of the new Law on changes and amendments to the Family Law. This Law entered into force on 19 August 2016 and would be applicable as from 19 May 2017. This Law explicitly stipulated that the child must not be subjected to corporal punishment or any other cruel, inhuman or degrading treatment or punishment. The prohibition referred to in this paragraph applied to parents, guardians and all other persons that were taking care of the child or came into contact with a child.

314. According to the Representative of Montenegro, the Strategy for protection of children from violence was under development. The strategy provided that the Criminal Code would impose penalty and criminal responsibility for corporal and any other kind of violence against the children which would be qualified as a criminal offence. This Strategy was intended to be adopted in 2017.

315. The GC congratulated the Government of Montenegro on these positive developments, asked to provide all the relevant information in the next report and decided to await the next ECSR's assessment.

RESC 17§1 RUSSIAN FEDERATION

The Committee concludes that the situation in Russian Federation is not in conformity with Article 17§1 of the Charter on the ground that not all forms of corporal punishment are prohibited in the home and in institutions.

316. The Secretariat said that the situation was not in conformity on this ground for the first time.

317. According to the Representative of the Russian Federation, to provide secure childhood has been a priority of the Government in recent years. Under the Family Code parental rights may not be exercised in contradiction to the rights of a child. The Penal Code has a chapter on crimes against minors. It criminalizes cruel treatment of a child in different Articles, such as Article 63, 56 and 116.

318. The Representative of the Russian Federation informed the GC of the Resolution of the Supreme Court, in which the Court had defined violence against children as not only physical, mental or sexual but also as the use of unacceptable methods of childrearing. All these definitions were wider than just corporal punishment. If the method used to educate a child caused physical pain, it would constitute a criminal offense.

319. The Secretariat recalled the ECSR's case law concerning corporal punishment, namely that under Article 17§1 prohibition did not necessarily have to be in the criminal law, a prohibition in civil law may be sufficient. Neither was it necessary that the prohibition be laid down by legislation, case law may suffice, if it emanated from a superior court, was unequivocal and binding on all lower courts, i.e. there was no possibility for lower courts to apply a right of correction or a right of reasonable chastisement. However, even if violence against the person was punished under the criminal law and provided for increased penalties where the victim was a child, this would not constitute a sufficient prohibition in law to comply with the Charter unless a state could demonstrate that such legislation was interpreted as prohibiting all forms of corporal punishment against children and effectively applied as such.

320. The Secretariat asked the Government of the Russian Federation to provide examples of case-law, such as the Resolution of the Supreme Court, in the next report, as it would be very pertinent for the ECSR in its assessment of the situation.

321. The Representative of Sweden underlined that this would be a good reminder and a message to bring home that with a sound criticism and the political support from the globalized world there could be a change in the end. It was not enough just to have a law, it needed to be enforced and followed up at all levels of the society.

322. The GC took note of the information provided, asked the Government of the Russian Federation to remedy the situation and decided to await the next ECSR's assessment.

RESC 17§1 SERBIA

The Committee concludes that the situation in Serbia is not in conformity with Article 17§1 of the Charter on the ground that corporal punishment is not prohibited in the home and in institutions.

323. The Secretariat said that the situation was not in conformity on this ground for the first time.

324. According to the family law corporal punishment was not strictly prohibited in the home and in institutions. The family law prohibited domestic violence against the child. In addition to protection provided by the Law, the General Protocol for the protection of the child from abuse and neglect offered clear and binding guidelines for all social service providers. Besides, there was a special protocol on the protection of the child from abuse and neglect, which imposed an obligation on all social protection institutions to set up an internal team for the protection of the child from abuse and neglect as well as an obligation for institutions to report any type of incident in which children were victims to the ministry of labor within 24 hours.

325. Although the family law stipulated that parents should not subject the child to humiliating treatment and punishment and that they should protect the child from such a treatment by other person, corporal punishment was not explicitly prohibited. This was the reason that the Ministry had started work on the draft law on amending the Family Law, which envisaged introducing a ban on corporal punishment into the Family Law and sanctions into the Criminal Law.

326. In reply to a question from the Chair, the representative of Serbia noted that the draft law was foreseen for adoption in 2018.

327. The GC took note of the information provided by the Representative of Serbia, asked the Government to remedy the situation and decided to await the next ECSR's assessment.

RESC 17§1 SLOVAK REPUBLIC

The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 17§1 of the Charter on the grounds that: all forms of corporal punishment are not prohibited in the home.

328. The Secretariat said that the situation was not in conformity on this ground since Conclusions XXI-2 (2003).

329. According to the Representative of the Slovak Republic protection of children against corporal punishment was already embedded in the Act 305/2005 on Social and Legal Protection of Children and Social Guardianship which stated that it was prohibited to use any forms of physical punishment against children and other gross or degrading forms of treatment of punishment. To further strengthen the protection of children, the re-codification committee introduced an explicit ban on corporal punishment in an amendment to the Penal Code effective from 1 July 2016. The act now prohibited all forms of physical punishment as a criminal act of violence against children and also classified corporal punishment as a criminal act of violence against a dependent person.

330. In reply to the question from the representative of the ETUC, the representative of the Slovak Republic noted that corporal punishment would be a criminal offence irrespective of the perpetrator.

331. The GC took note of the information provided, congratulated the Government of the Slovak Republic on the adoption of the amendments to the law and decided to await the next ECSR's assessment.

RESC 17§1 SLOVENIA

The Committee concludes that the situation in Slovenia is not in conformity with Article 17§1 of the Charter on the ground that not all forms of corporal punishment are prohibited in the home.

332. The Secretariat said that the situation was not in conformity on this ground since Conclusions 2011.

333. According to the Representative of Slovenia, the Government amended two Acts in 2016 and included the explicit prohibition of all corporal punishment of children in domestic and other settings into the national legislation.

334. The explicit prohibition of corporal punishment of children in other settings was included in the Act Amending the Organisation and Financing of Education Act (Article 2a) which entered into force in July 2016.

335. The explicit prohibition of corporal punishment of children in the domestic environment was included in the Act Amending the Domestic Violence Prevention Act (Article 3a) adopted by the Government in July 2016 and envisaged for final adoption by the end of 2016.

336. According to the Representative of Slovenia, the Government held that the violation of Article 17§1 of the Charter as established in the collective complaints procedure (No. 95/2013) and in the conclusion 2015 had been remedied. The situation in Slovenia would be in compliance with the Charter by the end of this year.

337. The GC took note of the information provided, congratulated the Government of Slovenia on the positive developments and decided to await the next ECSR's assessment.

Article 17§2 - Free primary and secondary education - regular attendance at school

RESC 17§2 HUNGARY

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

338. The Secretariat said that the situation was not conformity on this ground since Conclusions 2011.

339. The Representative of Hungary provided the information on measures taken by the Government of Hungary in the following areas:

- Measures with the objective of desegregation;
- Measures with the objective to prevent the unjustified labelling of Roma as disabled;
- Measures with the aim to improve access to quality inclusive education.

340. The Chair asked the representative of Hungary to provide all the necessary information including statistical evidence in the next report as well as the comments on the information provided by the NGOs. In reply to the question from the representative of Sweden, the representative of Hungary noted that the only requirement to enroll in a school a proof of residence. The representative of France mentioned that there had been measures taken but the Human Rights Commissioner's recent report still underlined problems. In reply to a question from the Chair, the Representative of Hungary noted that the legal act that prevented segregation was adopted during the reference period. The Chair noted that the problem remained in practice.

341. The GC took note of the information provided and of some progress that had been made, asked the Government of Hungary to provide all the necessary information in the next report and decided to await the next ECSR's assessment.

RESC 17§2 REPUBLIC OF MOLDOVA

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 17§2 of the Charter on the grounds that:

- *the net enrolment rate in compulsory education remains too low;*
- *measures taken to ensure that Roma children complete compulsory education are not sufficient.*

First ground of non-conformity

342. The Secretariat said that the situation was not in conformity on this ground since Conclusions 2005.

343. The Representative of the Republic of Moldova informed the GC of the Development of Education Programme for 2011-2020 and the National Programme to combat school drop-out which had been approved in 2014. On the basis of these programmes the Government took action to improve access to education and to optimize enrolment of children, in particular in rural areas, in compulsory education. According to the Representative of the Republic of Moldova enrolment of children until 16 years of age was regularly monitored and the database was updated three times a year. However, according to the representative there had been no changes to the enrolment rates.

344. With a view to raising the enrolment rate in primary and secondary educational institutions, the Government had intensified its efforts to ensure that children from vulnerable families had access to education. The measures taken included minimizing the negative impact of indirect and informal costs of education,

especially in rural areas, taking urgent measures to ensure the implementation of inclusive education, compulsory training of teachers etc.

345. The Ministry of Education promoted the implementation of the new methodology of financing by pupil in primary and secondary educational institutions, with a view to increasing enrolment and reducing drop-out.

346. The Chair noted that there was no change concerning the enrolment rate in compulsory education.

347. The GC took note of the measures implemented to increase the enrolment rate and asked the Government of the Republic of Moldova to provide all the necessary information in the next report and decided to await the next ECSR's assessment.

Second ground of non-conformity

348. The Secretariat said that the situation was not in conformity on this ground since Conclusions 2011.

349. The Representative of Moldova stated that equal access to education for all children was a priority of the Government. The issue was included in the old and the new Action Plan for the support of the population for years 2016-2020 approved on June 9, 2016. This included raising enrollment of Roma children, especially girls and the prevention of discrimination and segregation of Roma children in the education system.

350. In accordance with international standards, the Department of Statistics did not include since 2004 any data on the ethnicity of the children up to 16 years. There was a network of educational institutions at all levels that ensured access for children including Roma children. Public authorities in partnership with civil society organizations organized information and awareness campaigns for parents regarding the education of children on the importance of primary and secondary education.

351. According to the representative of the Republic of Moldova, addressing the problem of low enrollment and high drop-out of Roma children was still on the agenda of central and local public authorities. The reasons for low enrollment were the precarious financial situation, frequent change of residence, parental refusal. The situation regarding school dropout had improved. In January 2016 there were 60 Roma pupils who dropped out of school, compared to 98 students in the year 2014-2015.

352. The Ministry of Education:

- Provided free transportation of Roma inhabitants 3 km from the nearest school;
- Developed the curricula for "Language, history and culture of Roma" and included this discipline in the pre-university curriculum for all applicants;
- Provided extended day programme of studies to prepare assignments;
- Provided continuous training of teachers on intercultural education;

- Cooperated with NGOs and Roma mediators, by involving them in the solution of problems;
- Developed the guide for Roma community mediators (chapter "Education").

353. The Chair noted that both ECRI in its report and ECSR in its conclusion had noted that measures had been taken to improve the situation of Roma children in education. In reply to a question from the Representative of France, the Representative of the Republic of Moldova noted that ethnic data were only collected at local level to monitor enrolment rates.

354. The GC took note of some positive developments and asked the Government of the Republic of Moldova to provide all the relevant information in its next report and decided to await the next ECSR's assessment.

RESC 17§2 SLOVAK REPUBLIC

The Committee concludes that the situation in the Slovak Republic is not in conformity with Article 17§2 of the Charter on the ground that Roma children are disproportionately represented in special classes.

355. The Secretariat said that the situation was not in conformity on this ground since Conclusions 2011.

356. The Representative of the Slovak Republic stated that measures were taken in the follow up to the ECRI findings. In order to improve the situation of Roma pupils, the Government had discussed with the European Commission against Racism and Intolerance (ECRI) the ways to improve the situation. ECRI had advised the Government to build more kindergartens to ensure that pre-school education was available to all Roma children. The Government had started to take necessary steps to improve the education of the Roma children.

357. More specifically, the Government had already started to allocate financial resources to build pre-primary education facilities and community centers in areas where the members of the marginalized Roma community lived to help the Roma children attain proper pre-school education and to ensure that they were able to attain the mainstream education because it had been discovered that the lack of pre-primary education negatively influenced the Roma children and their chances to succeed in the mainstream education.

358. According to the Representative of the Slovak Republic, the Government also planned to introduce new legislation on diagnosis of mental capabilities of children to minimize the amount of Roma children placed in special classes.

359. The Government had recently updated the National Strategy for the Integration of Roma up to 2020 according to the result of discussions with the representatives of the Roma communities to better reflect the situation of education of the Roma children. More specifically, the Government had created educational programs for Roma children and their parents focusing on informing the parents about the importance of pre-primary education for their children. The programs have already been presented in several Roma communities. The Government had also allocated additional financial resources to increase personal and professional

capacities of primary schools to hire the so-called education assistants who help Roma children in overcoming any difficulties they might have during the education process in the mainstream education. Another measure was the introduction of the so-called career coach, a person who specifically helped Roma children finishing their primary education in choosing the right secondary school.

360. Another new measure was the adoption of the new Act 336/2015 on Support of the Least Developed Districts of the Slovak Republic. The Act enabled the Government to adopt an action plan specifically tailored to the needs of least developed regions. The Government could then allocate additional financial resources to improve the situation in this region. The Act had been in force since the beginning of this year and there would be regular reports on the application of this act.

361. The GC took note of the information provided, asked the Government of the Slovak Republic to remedy the violation, to provide all the necessary information in the next report and decided to await the next ECSR's assessment.

RESC 17§2 TURKEY

The Committee concludes that the situation in Turkey is not in conformity with Article 17§2 of the Charter on the ground that irregularly present children do not have effective access to education.

362. The Secretariat said that the situation was not in conformity on this ground since Conclusions 2011.

363. According to the representative of Turkey, the Turkish education system was based on Article 42 of the Constitution stating that "no one shall be deprived of the right to learn and education" and "primary education is compulsory for all citizens of both sexes and is free of charge in state schools".

364. Article 4 of the Basic Law on National Education stated that educational institutions were open to all, regardless of language, race, sex or religion. No privilege would be granted to any individual, family, group or class. The Higher Education Law also stipulated that educational institutions were open to all and that necessary measures would be taken to ensure equal opportunity.

365. Compulsory primary education had been increased to 8 years in 1998 which in turn raised the enrolment rates in primary education. The new legislation introduced in 2012 extended compulsory education to 12 years.

366. Foreigners' entry to, stay in and exit from Turkey as well as the procedures and principles related to the scope and implementation of the protection to be provided to foreigners requesting protection from Turkey, are determined in Law No 6458 on Foreigners and International Protection.

367. The Ministry of Education had prepared a guidance and explanatory regulation in line with the related legislation to eliminate problems and hesitations experienced by foreigners in education services in Turkey.

368. With Circular No.2014/21 on "Education Services for Foreigners", limitations to access to educational institutions of the Ministry have been removed for all registered foreigners. Foreign children's access to education, including the children of migrant workers in, is regulated by Circular No. 2014/21.

369. Foreign nationals' children should be registered for accessing primary and secondary education. No services except for emergency health care could be provided for unregistered foreigners according to the Circular issued by the Ministry of Interior.

370. Enrolment in primary schools is carried out within the scope of Early Childhood Education and Primary Education Institutions Regulation. To follow the enrolment and attendance of foreign students at compulsory school age, students must have residence permits and ID number that will be taken from the district's population departments according to Circular No. 2014/21. Enrolment and attendance to school of Children in immigrant families had the same status than students who had Turkish Republic (TR) ID numbers.

371. The representative of Turkey said that the government had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. The provisions of international human rights treaties ratified by Turkey should be directly invoked before Turkish courts.

372. In reply to the question from the Chair, the representative of Turkey stated that both the Circular No.2014/21 on "Education Services for Foreigners" and the Regulation on Temporary Protection gave access to education to foreign children provided that they had an ID number.

373. The GC took note of the information provided, asked the Government of Turkey to provide all information in the next report and decided to await the next ECSR's assessment.

REVISED EUROPEAN SOCIAL CHARTER

Article 19§4 - Equality regarding employment, right to organize and accommodation

RESC 19§4 CYPRUS

The Committee concludes that the situation in Cyprus is not in conformity with Article 19§4 of the Charter on the grounds that treatment not less favourable than that of nationals is not ensured for migrant workers with respect to:

- *remuneration and working conditions;*
- *housing assistance.*

374. The Secretariat said that the situation was not in conformity on both grounds since 2011.

First ground of non-conformity

375. The Representative of Cyprus said that equal treatment of non-EU migrant workers in employment is ensured through the contract of employment that contains the same terms and conditions of employment that apply to the domestic and EU labor force. Collective agreements safeguard equal treatment of all workers in Cyprus. The rights of migrants were protected by an established procedure for the examination of complaints against the violation of the terms and conditions for their employment.

376. The Representative of Cyprus found the claim that Cyprus denied non-EU workers equal working conditions unsubstantiated. As example, the Social Insurance Scheme covered compulsorily every person gainfully occupied in Cyprus either as employed or as self-employed person with no discrimination between nationals and non-nationals.

377. The Representatives of Denmark and ETUC asked to include into the next report statistical information on how the above complaints were handled and which follow up had been undertaken.

378. The Representative of Cyprus quoted statistical information on the important decrease of complaints lodged. This was a clear sign that labour exploitation had dramatically been reduced.

379. The GC took note of the information and explanations provided and invited the Government of Cyprus to include all the relevant and updated information in its next report. It asked the Government of Cyprus to remedy the situation and decided to await the ECSR's next assessment.

Second ground of non-conformity

380. The Representative of Cyprus said that all migrant workers that came to Cyprus with a contract of employment as domestic or agricultural workers were provided with suitable accommodation by their employers. The contract provided a rent allowance for those who wished to reside elsewhere.

381. The GC congratulated the Government of Cyprus to these positive developments and decided to await the ECSR's next assessment.

RESC 19§4 NORWAY

The Committee concludes that the situation in Norway is not in conformity with Article 19§4 of the Charter on the ground that a two-year residence requirement for eligibility for municipal housing, as applied by some municipalities, is excessive and constitutes a discrimination against migrant workers and their families.

382. The Secretariat said that the situation was not in conformity on this ground since Conclusions 2011.

383. The Representative of Norway confirmed that in Norway it was the municipalities which had been given primary responsibility for providing housing for

disadvantaged groups. Indeed, several municipalities required residence requirements as part of their criteria for public social housing. The requirement was also valid for Norwegian citizens moving from one city to another. Consequently, the Government of Norway did not consider the residence requirement as discriminating. In addition, the specific two year restriction helped to reduce of migrant flow towards major cities.

384. Following a question from the Representative of ETUC, the Representative of Norway confirmed that the said the two year requirement was the same for Norwegian and other nationals.

385. Following a question from the Representative of France, the Representative of Norway confirmed that there was no residence time to be respected before an application for housing allowance could be made.

386. The GC took note of the information and explanations provided and invited the Government of Norway to include all the relevant and updated information in its next report. It asked the Government of Norway to remedy the situation and decided to await the ECSR's next assessment.

RESC 19§4 SLOVENIA

The Committee concludes that the situation in Slovenia is not in conformity with Article 19§4 of the Charter on the grounds that equal treatment is not secured for migrant workers with respect to access to housing, and in particular to assisted rental schemes and subsidies.

387. The Secretariat said that the situation was not in conformity on this ground since 2002. In 2007, the GC had voted on a warning which was not carried (5 in favor, 13 against).

388. The Representative of Slovenia said that her Government had adopted at the end of 2015 a National Housing Programme (2015 – 2025). The primary objective of this programme was to increase the supply of and access to public rental housing for vulnerable groups. In addition, legislative changes were underway due for public debate in 2017.

389. The Representative of ETUC noted that a similar Housing Programme had already been announced in 2011. The Representative of France insisted that the up-coming legislation included the equal treatment aspect concerning migrant workers.

390. The GC took note of the information and the explanations provided and urged the Government of Slovenia to remedy the situation. As for the situation with respect to access to housing, the GC insisted that the equal treatment aspect concerning migrant workers be included in the up-coming legislation scheduled for public debate in 2017. The GC decided to await the ECSR's next assessment.

Article 19§6 - Family reunion

RESC 19§6 ARMENIA

The Committee concludes that the situation in Armenia is not in conformity with Article 19§6 of the Charter on the ground that there is no right of review of a decision rejecting an application for family reunion before an independent body.

391. The Secretariat said that the conclusion had been deferred in 2011.

392. The Representative of Armenia said that the Armenian law allowed foreigners to appeal against a decision rejecting an application for obtaining or extending a residence status through judicial procedure. If the validity period of the residence permit expired prior to the examination by the court, a temporary residence permit allowed him/her to stay until the court decision had been taken. Detailed information on this mechanism had not been included into the last national report.

393. The Representative of ETUC deplored that apparently important information had not been provided to the ECSR already twice. He strongly urged the Government of Armenia to describe the appeal mechanism in detail in the next report.

394. The GC took note of the information and explanations provided and invited the Government of Armenia to include all the necessary information on the appeal mechanism into the next report. The GC decided to await the ECSR's next assessment.

RESC 19§6 AUSTRIA

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

- *the age limit of 21 for family reunion of married couples who are not nationals of an EEA member state does not facilitate family reunion;*
- *under the quota system which limits the number of requests which may be accepted during any given year, families may be required to wait for up to three years before being granted reunion, a delay which is excessive;*
- *the fact that certain categories of sponsored family member need to prove knowledge of the German language at level A1 on the Common European Framework hinders the right to family reunion.*

<u>First ground of non-conformity</u>

395. The Secretariat said that the situation was not in conformity on this ground since Conclusions XIII-2 (1994). On the previous occasion, the Representative of Austria indicated that the issue would be settled once the Revised Charter had been ratified.

396. The Representative of Austria said that it was the view of her Government that it was not correct to consider that this situation of non-conformity dated back to 1994. At the time Austria had been criticized under the 1961 Charter on the ground that Austrian law and practice had not provided for family reunion up to the age of 21 for the children of all migrant workers.

397. In the past as today the age limit for family reunion of children was the age of majority meaning 18 years old. These corresponded with the requirements of the Revised Charter which guaranteed family reunion with children provided that they considered minors by the receiving state and were dependant on the migrant worker. According to the Austrian Government, this particular issue had been solved in 2011 with the ratification of the Revised Charter.

398. The situation of non-conformity discussed today was a first time situation of non-conformity. It concerned the minimum age of spouses who wished to apply for family reunion and were not EEA nationals.

399. The Representative of Austria provided inter alia the following reasons why her Government did not intend to change the minimum age of 21 for non-EEA spouses wishing to apply for family reunion:

- The rule was in line with the EU family reunion Directive;
- The measure was justified to prevent forced marriages (see also jurisprudence of the ECJ and the Austrian Constitutional Court);
- Sufficient maturity of the spouses concerned was a relevant factor for successful integration.

400. The Representative of Turkey insisted that the GC was not to assess compliance with EU Directives but with the requirements of the European Social Charter. The age limit of 21 years established only for non-EEA nationals was clearly a discrimination issue.

401. The Representative of Luxembourg said that the GC had also to take account of the overall political environment. With the current on-going discussion in Europe the age limit imposed by the Government of Austria was understandable.

402. The GC took note of the information and explanations provided. It asked the Government of Austria to remedy the situation and decided to await the ECSR's next assessment.

<u>Second ground of non-conformity</u>

403. The Secretariat said that this situation was not in conformity since 2011.

404. The Representative of Austria said that the quota requirement concerning the family reunification of third country nationals with third country nationals already residing in Austria was applied for a maximum of three years. After this time the application required no longer a quota allotment.

405. The Representative of Austria added that the quota allotments had been set at such a level in order to meet the expected demand for family reunification in any given year. Combined with the currently foreseen allotments, a third country national applying for family reunification had not to wait longer than one year for a free quota allotment. By today, the quota system did not restrict cases of family reunification.

406. Replying to a question from the Chair, the Representative of Austria confirmed that legally families may be required to wait up to three years before being

granted family reunion. However, practice showed that one year was hardly exceeded.

407. The GC took note of the information and explanations provided and decided to await the next ECSR's assessment.

Third ground of non-conformity

408. The Secretariat said that this situation was not in conformity for the first time.

409. The Representative of Austria said that persons wishing to lead a family life in another country could be expected to learn the language of the country of destination. After all, level A1 was the lowest level foreseen in the Common European Framework of Reference of Languages (CEFR). She added that the language requirement was in line with EU law (Family Reunification Directive) and in fact did not lead to a steep decline of residence permits granted on the basis of family reunification requests.

410. The Representative of Turkey emphasised that language requirements were forbidden by all international treaties dealing with family reunification with migrant workers. Such a requirement was a clear breach of the European Social Charter. He argued that the GC should send a strong message to remedy the situation. The other GC Representatives did not follow the Turkish proposal.

411. The GC took note of the information and explanations provided. It asked the Government of Austria to remedy the situation and decided to await the ECSR's next assessment.

RESC 19§6 CYPRUS

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

- *sponsors must be resident in the host State for a minimum of two years prior to being granted family reunion;*
- *spouses must be over the age of 21 years prior to being eligible for family reunion;*
- *the residence permit of a family member of the sponsor may be revoked where the sponsor's residence permit is terminated and the family member does not yet have an independent right of residence.*

First ground of non-conformity

412. The Secretariat said that the situation was not in conformity since 2011.

413. The Representative of Cyprus said that the law in force was in line with EU Directive 2003/86/EEC. However, the Government of Cyprus was willing to examine possible amendments to this law.

414. The GC took note of the information provided in that the Government of Cyprus was considering amending the law in the light of this ground of non-

conformity. It invited the Government of Cyprus to include all the relevant information into the next report and decided to await the ECSR's next assessment.

Second ground of non-conformity

415. The Secretariat said that the situation was not in conformity for the first time.

416. The Representative of Cyprus said this requirement aimed at preventing abuse of the system in particular the arrangement of forced marriages. The Government of Cyprus considered this requirement not as an obstacle to family reunion.

417. The GC took note of the information provided in that the Government of Cyprus was considering amending the law in the light of this ground of non-conformity. It invited the Government of Cyprus to include all the relevant information into the next report and decided to await the ECSR's next assessment.

Third ground of non-conformity

418. The Secretariat said that the situation was not in conformity for the first time.

419. The Representative of Cyprus said that the legislation provided the opportunity for a family member to apply for a residence permit in cases when the residence permit of the sponsor was revoked. When this application was examined the specific family situation was taken into account. As a result the Government of Cyprus took the view that its legislation was in conformity with the European Social Charter.

420. The GC took note of the information provided. It invited the Government of Cyprus to include all the relevant information into the next report and decided to await the ECSR's next assessment.

RESC 19§6 ESTONIA

The Committee concludes that the situation in Estonia is not in conformity with Article 19§6 of the Charter on the ground that the two years residence requirement, imposed on migrant workers who are not citizens of Member States of the European Union nor citizens of states within the European Economic Area, is excessive.

421. The Secretariat said that the situation was not in conformity on this ground since Conclusions 2004.

422. The Representative of Estonia said that the Government of Estonia had adopted a bill which was under examination by the Parliament since June 2016. The foreseen legislation will drop the two year residence requirement. It is hoped that the new legislation will be in force by the end of 2016.

423. The GC took note of the information and invited the Government of Estonia to proceed with the draft legislation intending to drop the two year residence requirement. It decided to await the ECSR's next assessment.

RESC 19§6 LATVIA

The Committee concludes that the situation in Latvia is not in conformity with Article 19§6 of the Charter on the ground that family members are not granted an independent right to remain.

424. The Secretariat said that the situation was not in conformity on this ground for the first time.

425. The Representative of Latvia referred to a 2016 draft concept report on immigration policy which the Government of Latvia had commissioned. This report made proposals to improve the immigration law in force since October 2002. As for family reunification, the report foresaw the right to employment for family members of third country nationals provided that such a third country national – the primary applicant – was entitled to work in Latvia. According to the report such an approach should facilitate a more successful integration into Latvian society.

426. The Representatives of France and ETUC asked for more details on the right of family remembers to remain in particular when it came to possible improvements which the future legislation would entail. The Representative of Latvia said that the new legislation would indeed improve the situation of family members to stay but she could not provide the necessary details at this stage.

427. The GC took note of the information provided and asked to Government of Latvia to include all the relevant information into the next report. The GC invited the Government of Latvia to proceed with the draft immigration law which should lead to an independent right of family members to remain.

RESC 19§6 THE NETHERLANDS

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

- *the minimum age of 21 for spouses to be eligible for reunification is an undue restriction on family reunion;*
- *family members of a migrant worker who have settled in the Netherlands as a result of family reunion may be expelled automatically when the migrant worker loses his or her right of residence.*

<u>First ground of non-conformity</u>

428. The Secretariat said that the situation was not in conformity on this ground for the first time.

429. The Representative of the Netherlands said that the requirement was in line with the EU Directive on the right to family reunification (2003/86/EC). The Directive allowed exceptional family reunification with sponsor and spouse both aged 18 provided that they were legally married or in a registered partnership and on the condition that this marriage/registered partnership existed abroad before the sponsor decided to reside legally in the Netherlands. The Government of the Netherlands considered that this policy was not an undue restriction to family reunification.

430. The GC took note of the information provided. It considered the situation that a couple married abroad at the age of 18 could enter the country as a positive development. The GC invited the Government of the Netherlands to include all the relevant information into the next report and decided to await the ECSR's next assessment.

Second ground of non-conformity

431. The Secretariat said that the situation was not in conformity on this ground for the first time.

432. The Representative of the Netherlands said that the residence permit of family members of a migrant worker depended on the legal status of the said migrant worker. It was up to the migrant worker to provide a sustainable income to take care of the spouse and the other family members. When a migrant worker lost his/her job and as a result his/her legal stay in the Netherlands came to an end, the residence permit of the family members ended too.

433. However, individual circumstances may make that a family member could apply for a different residence permit irrespective of the status of the migrant worker. It was to be noted that in the Netherlands family members did not lose automatically their residence permit. In addition they could appeal if a withdrawal of the residence permit had been decided.

434. The GC welcomed the situation that in the Netherlands a family member did not lose automatically its residence permit when the one of the migrant worker had been revoked. The GC asked the Government of the Netherlands to include all the relevant data including statistical information in the next report and decided to await the ECSR's next assessment.

RESC 19§6 SERBIA

The Committee concludes that the situation in Serbia is not in conformity with Article 19§6 of 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.

435. The Secretariat said that the situation was not in conformity on this ground for the first time.

436. The Representative of Serbia said that in 2016 a new law had been adopted affecting the rights of family members of a migrant worker. The new law granted an independent right of residence also to family members of a migrant worker. The Government of Serbia considered that it complied now with the requirements of the European Social Charter.

437. The GC congratulated the Government of Serbia on the adoption of this new law and decided to await the ECSR's next assessment.

RESC 19§6 "THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA"

The Committee concludes that the situation in "the former Yugoslav Republic of Macedonia" is not in conformity with Article 19§6 of the Charter 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.

438. The Secretariat said that the situation was not in conformity on this ground for the first time.

439. The Representative of 'The Former Yugoslav Republic of Macedonia' recognized that important information had not been included in the national report. For example, provided that certain criteria were met the Ministry of the Interior could prolong the residence permit of a family member if the one of the sponsor had been revoked.

440. The Representative of 'The Former Yugoslav Republic of Macedonia' then referred in particular to the preparation of a new law on foreigners which would transpose in national legislation relevant EU Directives in this area. It was intended to send this draft law for review to the European Commission in spring 2017. Once the new would be adopted the rights of family members of a migrant worker would be considerably be improved.

441. The GC took note of the information provided. It asked the Government of 'The Former Yugoslav Republic of Macedonia' to include the relevant information into the next report. The GC asked the Government of 'The Former Yugoslav Republic of Macedonia' to proceed with the adoption of the new draft legislation and decided to await the ECSR's next assessment.

RESC 19§6 TURKEY

The Committee concludes that the situation in Turkey is not in conformity with Article 19§6 of the Charter on the ground that the requirement that family members of a migrant worker reside for Turkey for three years before acquiring an independent right of residence is excessive.

442. The Secretariat said that the situation was not conformity on this ground for the first time.

443. The Representative of Turkey explained to the GC the six different types of residence permits as they were defined in the Law on Foreigners and International Protection. He continued in saying that any person reaching the age of 18 who resided in Turkey for a minimum of three years on a family residence permit may upon application convert to a short-term residence permit.

444. The condition which read "three years on a family residence permit" did not aim to restrict the right of family reunification. Positively interpreted the condition meant that a person residing in Turkey for three years with a family residence permit had the right to obtain an independent residence permit.

445. On the basis of the information provided the Government of Turkey considered that its legislation and practice with respect to family reunification and residence permit was in conformity with Article 19§6 of the European Social Charter.

446. Replying to a question of clarification from the Representative of the Netherlands, the Representative of Turkey confirmed that family members could stay

in the country provided that they obtained either a work permit or a residence permit before the sponsor had to leave the country. He added that with a work permit no additional residence permit was required.

447. The GC took note of the information provided, asked the Government of Turkey to include all the relevant information in the next report and decided to await the ECSR's next assessment.

Article 19§8 - Guarantees concerning deportation

RESC 19§8 REPUBLIC OF MOLDOVA

The Committee concludes that the situation in the Republic of Moldova is not in conformity with Article 19§8 of the Charter on the ground that the legislation permits the expulsion of migrant workers in situations where they do not pose a threat to national security, or offend against public interest or morality.

448. The Secretariat said that the situation was not in conformity on this ground since 2011.

449. The Representative of the Republic of Moldova said that in accordance with the law on foreigners dated 16th of July 2010, foreigners legally residing in the Republic of Moldova enjoyed the same rights as citizens of the country. Indeed, legislation authorized foreigners to be expulsed in the event that they represented a public danger. However, such a decision could be challenged by an appeal.

450. The Representative of the Republic of Moldova said that her Government considered a revision of certain criteria currently applied in the case of expulsion of foreign citizens.

451. The GC took note of the new law on foreigners dated 16th of July 2010. The new law seemed to strengthen the rights of foreigners in situations of possible expulsion.

452. The GC took note of the information provided, asked the Government of the Republic of Moldova to provide the relevant information in the next report and decided to await the next ECSR's assessment.

RESC 19§8 SERBIA

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 he/she will take advantage of the stay for purposes other than those declared.

453. The Secretariat said that the situation was not in conformity on this ground for the first time.

454. The Representative of Serbia recalled that in 2016 a new law had been adopted affecting the rights of migrant workers. The new law stipulated that individual aspects had to be taken into account before any decision on expulsion could be taken.

455. Replying to question from the Chair, the Representative of Serbia said that a complementary decree to the described law would be published by the end of this year. She confirmed that by then the situation would be totally different compared to the one assessed by the ECSR.

456. The GC took note of the information provided, asked the Government of Serbia to proceed with the implementation of the law and decree described and decided to await the next ECSR's assessment.

RESC 19§8 SLOVENIA

The Committee concludes that the situation in Slovenia is not in conformity with Article 19§8 of the Charter on the grounds that:

- *migrant workers may be expelled in situations where they do not endanger national security or offend against public interest or morality;*
- *migrant workers have no independent right of appeal against a deportation order.*

457. The Secretariat said that both situations were not in conformity on this ground for the first time.

458. The Representative of Slovenia said that migrant workers residing lawfully in Slovenia could not be expelled from the country. She also said that migrant workers did have the right to appeal against an expulsion order. Consequently the Government of Slovenia considered that the situation in Slovenia was in conformity with Article 19§8 of the European Social Charter.

459. The Chair said that the grounds of non-conformity seemed to be based on a misunderstanding of the ECSR. She invited therefore the Government of Slovenia to contact the ECSR to ask for the necessary clarification.

460. The GC took note of the information provided. It invited the Government of Slovenia to contact the ECSR for clarification and decided to await the next ECSR's assessment.

Article 31§1 - The right to housing - Adequate standard

RESC 31 §1 LITHUANIA

The Committee concludes that the situation in Lithuania is not in conformity with Article 31§1 of the Charter on the ground that measures taken by public authorities to improve the substandard housing conditions of most Roma are insufficient.

The situation is not in conformity since Conclusions 2011.

461. The Secretariat said that the situation was not in conformity on this ground since Conclusions 2011.

462. The representative of Lithuania said that some important measures to improve the situation of Roma people had been adopted. The most important was the Action Plan for Roma Integration into the Lithuanian Society for 2015 - 2020, which was adopted in 2015. It aimed at reducing social exclusion of Roma,

promoting the participation of Roma in public life and increasing public tolerance. The representative of Lithuania said that one of the goals of the Action Plan was to improve housing conditions of Roma people and the objective was to strengthen the implementation of the right of Roma people to housing.

463. The Municipalities were responsible for two measures of the Action Plan:

- to increase access to housing for vulnerable population groups, including Roma;
- to organize meetings of municipalities and Roma communities regarding the new forms of social housing provision.

464. The Roma Community Centre was responsible for the third measure: to organize the provision of legal consultations on housing issues. About 15.000 EUR will be allocated each year in the period of 2016-2020 for the Centre.

465. The measures of the Action Plan were financed from the state and municipality budgets as well as from the EU Financial support and other receipts of international financial support funds. In conclusion the Lithuanian representative provided some statistical data on the presence of Roma population in Lithuania: based on the 2011 Population and Housing Census there were 2 115 Roma living in the country; 49% of all Roma were children and young people under 20 years of age; 81% of Roma resided in urban areas, whereas 19% of Roma lived in rural areas. The majority of Roma lived in the counties of Vilnius (38% / 814 persons), Kaunas (23% / 482 persons), Siauliai (11% / 224 persons), Marijampolé (10% / 214 persons) and Panevezys (7% / 145 persons).

466. The representative of Lithuania pointed out that the majority of Roma population lived near the district of Vilnius in an area (Tabor) with high level of criminality; usually they lived in houses that did not even have all legal requisite for a decent living. Therefore the municipalities tried to offer the possibility to move to another district by providing subsidized housing or social housing. For the period 2016-2019 45.000 euro were allocated by the municipality of Vilnius to this measure and already some Roma families had accepted to move to other districts.

467. The Committee took note of the information provided and decided to wait for the next assessment of the ECSR.

RESC 31 §1 SLOVENIA

The Committee concludes that the situation in Slovenia is not in conformity with Article 31§1 of the Charter on the ground that measures taken by public authorities to improve the substandard housing conditions of a considerable number of Roma are not sufficient.

468. The Secretariat said that the situation was not in conformity on this ground since Conclusions 2011.

469. The representative of Slovenia said that the national authorities disagree with the ECSR conclusion of non-conformity. The issue of living conditions of the Roma community was addressed in the Roma Community, in the Republic of Slovenia Act and the National Programme of Measures for the Roma (the programme for 2010–2015 had ended, and a new programme was being drafted for the following years).

470. Some measures had to be implemented in the coming period including certain measures to improve living conditions of the Roma. The representative of Slovenia highlighted that most Roma settlements in Slovenia, primarily in the Prekmurje region, had appropriate facilities; issues related to legalization and communal infrastructure were only present in certain illegal small Roma settlements in the Dolenjska region and efforts were underway to resolve them at the local level.

471. The representative of Slovenia said that spatial planning fell under the original jurisdiction of municipalities and consequently infrastructural improvements to Roma settlements could involve a relatively lengthy process. A preliminary condition for legalizing Roma settlements was to site these settlements in the municipal spatial plan.

472. In the reference period, such plans were adopted by 21 municipalities (out of 32 municipalities with Roma inhabitants) while in others they were still being drafted. The representative of Slovenia stressed that all municipalities with Roma inhabitants had included the infrastructural improvements of Roma settlements in their spatial plans.

473. In conclusion, the representative of Slovenia pointed out that in the opinion of the Slovenian Government these were to be considered as positive developments, since a success in improving the living conditions of Roma depended strongly on willingness and capacity of municipalities and Roma communities to build local partnerships.

474. The GC took note of the information provided and asked for more details on the measures taken to improve the housing situation of Roma population. The GC decided to await for the next ECSR's assessment.

Article 31§2 - Right to housing - Reduction of homelessness
RESC 31§2 NETHERLANDS

The Committee concludes that the situation in Netherlands is not in conformity with Article 31§2 of the Charter on the grounds that:

- *the minimum notice period before eviction of two weeks is too short;*
- *the law doesn't prohibit eviction from emergency accommodation/shelters without the provision of alternative accommodation.*

475. The Secretariat said that the situation was not in conformity on these grounds for the first time.

<u>The first ground of non-conformity</u>

476. As the first ground of non-conformity, the Dutch representative said that the minimum notice period before eviction was not two weeks in the Netherlands.

477. In order to demonstrate that this was not the case the representative of the Netherlands explained the procedure of evictions in the Netherlands. The Civil Code stipulated that in cases against a tenant whose tenancy had been revoked, the court

was obliged to set a date for eviction in its judgment. The representative of the Netherlands said that periods of 6 months to one year between the judgment and the date of eviction were very common.

478. The executor, who had been granted an enforceable order to evict, must engage a bailiff to carry out the eviction. Once the court had set a date for eviction, the bailiff could usually give the occupant a final opportunity to comply with the court ruling. It would be fair to say, that a period of fourteen days might be considered reasonable here. The representative of the Netherland specified that the government believed that the period of fourteen days or two weeks in this specific phase of the procedure had caused the misinterpretation.

479. After the date of eviction, the bailiff could proceed with the eviction, but was also free to postpone the eviction for an even longer period on humanitarian grounds with respect to the dignity of the person concerned. Therefore, the representative of the Netherlands concluded that the Dutch government believed that Netherlands' legal standards and practice with respect to period of evictions fully met the requirements of article 31, paragraph 2 of the European Social Charter.

480. The GC took note of the information provided and considered that the situation had been brought into conformity with the Charter. The GC decided to await the next ECSR's assessment.

Second ground of non-conformity

481. On the second ground of non-conformity, the representative of the Netherlands said that in the Netherlands the Social Support Act provided the legislative framework for the social support policy of local authorities. The Social Support Act ensured that no one was forced to live on the street. It was active policy of the local authorities to avoid evictions. In order to avoid evictions, housing associations responded to rent arrears as soon as possible, since rental arrears were an important reason for eviction. The Social Support Act provided the legislative framework for support and care for different categories of vulnerable people and for homeless people. This obligation to support homeless people, as formulated in (article 1.2.1 of) the Social Support Act, was absolute.

482. Pursuant to this article (referred to as the nationwide access principle) the shelter had to be provided by the municipality that the homeless person would turn to for help. The nationwide access principle constituted access to community shelter for those in need, also for a person evicted from an emergency accommodation or shelter due to serious misbehavior at the premises or aggression towards the staff. It would be fair to say that the legislative framework ensured that when an eviction took place from a shelter, it met the conditions which respected the dignity of the person concerned.

483. The representative of the Netherlands concluded that the Netherlands considered that the situation was in conformity with the Charter. The nationwide access principle in the Social Support Act was an absolute right and ensured that when a person was evicted from a shelter, this person still had a right to shelter and

care and that the municipality that evicted the person turned for help and provided alternative accommodation.

484. The GC took note of the information provided and decided to await the next ECSR's assessment.

RESC 31§2 SLOVENIA

The Committee concludes that the situation in Slovenia is not in conformity with Article 31§2 of the Charter on the grounds that:

- *measures in place to reduce the number of homeless persons were inadequate in quantitative terms;*
- *the law doesn't prohibit eviction from emergency accommodation/shelters without the provision of alternative accommodation.*

First ground of non-conformity

485. The Secretariat that the situation was not in conformity on this ground since Conclusions 2011.

486. The representative of Slovenia pointed out that in the reference period the number of accommodation places for the homeless had increased, relevant programs had been strengthened and increased funding had been made available for this specific purpose. Two new shelters had been opened in 2016. This still fell short of what was needed, but was a step in the right direction.

487. The GC took note of the information provided and of the positive developments. The GC decided to await the next ECSR's assessment.

Second ground of non-conformity

488. The representative of Slovenia said that the Slovenian legislation did not include any explicit prohibition of evictions from shelters and crisis centers. However, according to the information from the Ministry of Labour, Family, Social Affairs and Equal Opportunities, no evictions actually occurred, except where individual shelter or crisis center users behaved violently towards others and/or intentionally destroyed equipment. The detailed rules would be determined by each institution (not by the state).

489. The GC took note of the information provided and asked the Slovenian government to confirm that an alternative accommodation would be provided in case of eviction of a person from a shelter/accommodation. The GC decided to await the next ECSR's assessment.

RESC 31§2 SWEDEN

The Committee concludes that the situation in Sweden is not in conformity with Article 31§2 of the Charter on the grounds that the law doesn't prohibit eviction from emergency accommodation/shelters without the provision of alternative accommodation.

The Secretariat said that the situation was not in conformity on this ground for the first time.

490. The Swedish representative said that Sweden had a very strong social protection system to provide help for those who were not able to support themselves. The majority of the municipalities in Sweden were actively working to prevent homelessness, especially for families with minor children. The Swedish Government had recently given the county administrative boards a task to support the local authorities in their work to facilitate access to housing, to combat homelessness and to prevent evictions. Special attention is given to families with minor children. The municipalities had the responsibility to plan for the construction of housing within the municipality.

491. The Swedish representative explained that the Social Services Act was the law that governed social service work in Sweden. Social services aim was to promote the economic and social security, equality in living conditions and active participation in society. According to this law, municipalities were required to provide support and assistance to anyone staying in the municipality and were ultimately responsible for ensuring that these persons received the support and assistance they needed (e.g. housing, economic support, emergency accommodation, protection of children, treatment for substance abuse or other social problems). If a person stayed only temporarily within the municipality, the responsibility of the Social Services was limited only to emergency support, which could be for example money for food and overnights stay at a shelter.

492. The Swedish representative pointed out that there was no specific law forbidding evictions from shelters per se. However, evictions from shelters were very rare. The reason for eviction from shelters was hardly ever for financial reasons. The reason occurring most frequently was that the accommodation did not suit the person's needs.

493. When an eviction of this kind occurred, the most common situation was that the person was offered an alternative accommodation. If the person to be evicted was in need of any other kind of support, for example health care, the person would be offered hospital care or treatment in a relevant institution.

494. The arrangement for an alternative accommodation (or a move to hospital/institution for a treatment) was organized and decided at municipality level in accordance with the law. In this regard it was important to know that the exercise of authority or the application of law in the decision making at municipality level was without interference by the Central Government. All municipalities in Sweden had an independent position in this regard and any intervention by the Government was prohibited. This also meant however that both the Government and the municipalities had a responsibility to respect individual rights and human rights in their decision-making.

495. There was not a specific law forbidding evacuations from emergency accommodations without the provision of alternative accommodation. Instead there were rules and/or local guidelines at municipality levels to meet these needs. As a result of the municipalities' independency, guidelines' regarding arrangements for alternative accommodation varied among the municipalities.

496. The Swedish representative pointed out that, if children were involved, the Social Services would be present and overlooked the child's care and rights. This responsibility was stated in the Social Services Act and the Social Services were according to this law obliged to have a strong child perspective. This obligation also included active preventive work and therefore evictions of families with children who stay in a shelter was most often avoided.

497. The Swedish representative informed the GC that in order to increase the knowledge about the reasons and factors behind homelessness and exclusion from the housing market, the National Board of Health and Welfare was about to prepare a national survey of homelessness and exclusion from the housing market. The study was to be carried out in 2017. This would help the Government and relevant actors to plan for appropriate measures as to prevent homelessness.

498. In conclusion, the Swedish representative said that the Government believed that the current system whereby measures were being taken to: a) firstly prevent eviction situations to occur; b) secondly, when they occurred, to arrange for those in need an alternative accommodation at municipality level, therefore showed that Sweden met the requirements of the Charter's Article 31§2.

499. The GC took note of the positive developments and of the encouraging information provided. It decided to await the next ECSR's assessment.

RESC 31§2 TURKEY

The Committee concludes that the situation in Turkey is not in conformity with Article 31§2 of the Charter on the grounds that there are no effective measures to reduce and prevent homelessness

The situation is not in conformity for the first time.

500. The Secretariat said that the situation was not in conformity on this ground for the first time.

501. The representative of Turkey gave information on the housing policy and measures to reduce and prevent homelessness of Turkey.

502. The Turkish representative said that urbanization rate in Turkey is 78%. It is envisaged that the urbanized population, which is, at the moment, about 60 Million will be 71 Million in 2023.

503. In this context, there was housing pressure caused by the low income groups in need in particular. This process caused establishment of slum areas in metropolitan cities and put pressure on infrastructure such as water, sanitation, housing and healthcare.

504. The Turkish representative said that Articles 56 and 57 of the Turkish Constitution state that "every Turkish citizen has the right to decent housing and that the State has a responsibility to help meet those needs and to promote mass housing projects". The Turkish representative pointed out that access to private funding through banking system to buy a home remained limited for low income

groups due to income and savings levels that were inadequate to meet housing loan payments.

505. Moreover, the Turkish representative explained that the Mass Housing Law (Law No. 2985, on 'public housing') was a framework law defining the fundamental principles, which gave direction to the solution of the housing problem in Turkey. The Law also determined the tasks of the Housing Development Administration (TOKİ). TOKİ, which was the leading official institution of Turkey in terms of dealing with housing and settlement issues, had acquired essential knowledge and experience on developing different finance models regarding housing production throughout its 30 year-activity period.

506. For its mass housing projects produced on its own lands, TOKİ had the target group of low and middle-income families, who were not able to own a housing unit within the existing market conditions in Turkey. The Emergency Action Plan for Housing and Urban Development had been approved on January 1, 2003, setting a five-year goal of 250,000 housing units to be built through renovation, transformation and production of quality housing by the end of 2007. Moreover, TOKİ had succeeded to reach the target of starting the constructions of 500 000 housing units including social facilities, in the first period of 2011.

507. The Turkish representative informed the GC that according to the Turkish Statistical Institute (TurkStat) data, the total number of buildings throughout Turkey was approximately 20 million and 40 percent of these buildings were shanty and 67 percent lack settlement permit. It was estimated that within 20 years approximately 6,7 million housing units would be demolished and reconstructed throughout the country. The social housing program of TOKİ targeted the low and middle-income people who could not own a housing unit under the existing market conditions. About 40% of the social housing projects realized were for the narrow and middle-income groups. About 85% percent of the houses produced by TOKİ were social houses which meant that 613.632 social houses have been built.

508. The Turkish representative explained that the implementations of the social housing projects were executed under the coordination of TOKİ and the Ministry of Family and Social Policies-General Directorate of Social Benefits (SYGM. With regard to the applications for low-income group houses, it was also expected that the net monthly household income should be 3.200 TL. at most. (Income limit for İstanbul has been determined as 3.700TL.)

509. Within the scope of the Law No.5162 that underlines "the prevention of shanty settlements in cities in cooperation with local authorities and the transformation of the existing shanty settlements" in the Emergency Action Plan of the program of the 58th Turkish Government and the regulations adapted in 12.05.2004, TOKİ had been assigned to be in service in the urban renewal projects and has been carrying out its projects in this sense. In this context, major urban transformation projects had been implemented in other cities and districts, particularly in cities with intense population such as Ankara, Istanbul, İzmir, Bursa, Denizli, Erzurum, Erzincan, Gaziantep, Trabzon.

510. The Turkish representative pointed out that social housing program was also implemented in the provinces where the population of Roma was high. Moreover, work was on-going to provide social housing in neighborhoods and towns where the population of Roma was high. The Turkish representative said that the information provided showed that the Turkish government was dealing seriously with the social housing projects and plans.

511. As far as the homeless people were concerned, the Turkish representative said that the report did not provide the necessary information. At present, only two NGO's could provide some statistics on homelessness. In Turkey, many projects had been carried out by the Local Administrations concerning the homeless. However, Turkey would provide detailed information and statistics on this issue in the next report.

512. The GC took note of the information provided, asked the Turkish government to provide all additional information requested by the ECSR and decided to await the next ECSR's assessment.

RESC 31§2 UKRAINE

The Committee concludes that the situation in Ukraine is not in conformity with Article 31§2 of the Charter on the grounds that the legal protection for persons threatened by eviction is not adequate.

513. The Secretariat said that the situation was not in conformity on this ground for the first time.

514. The Ukrainian representative said that according to the national legislation "No one shall be arbitrarily deprived of housing other than on the basis of the law pursuant to a court decision".

515. The Ukrainian representative underlined that citizens evicted from dwelling premises would be provided with another permanent dwelling premise, except for cases of eviction, when it took place foreclosure of dwelling premises acquired through a loan from bank or other person, whose return was secured by mortgage of respective premises.

516. The Ukrainian government believed there was a misunderstanding in the interpretation of the ECSR that in case of eviction due to insolvency or wrongful occupation, the person had the obligation of leaving the premises within the month when he/she received a written request from the owner. Article 109 of the Housing Code said that after taking by the lender a foreclosure decision for the mortgaged dwelling premises, the person or persons living therein shall, on written request from the lender, or the new owner of the premise, released it within one month from receipt date of the request. Eviction of citizens in cases foreclosure of dwelling premises acquired through a loan from bank or other person, whose return was secured by mortgage of respective premises, is a ground for delivery of dwelling premises to such citizens out of temporary housing stocks in accordance with Article 132-2 of the Housing Code.

517. The GC took note of the information provided, asked the Ukrainian government to provide all additional information requested by the ECSR and decided to await the next ECSR's assessment.

Article 31§3 - Right to housing - Affordable housing

RESC 31 §3 SLOVENIA

The Committee concludes that the situation in Slovenia is not in conformity with Article 31§3 of the Charter on the grounds that:

- *nationals of other States Parties lawfully residing or working regularly are not entitled to equal treatment regarding eligibility for non-profit housing;*
- *the supply of non-profit housing is inadequate;*
- *the average waiting period for allocation of non-profit rental housing is too long;*
- *the remedies in case of excessive length of waiting period are not effective.*

518. The Secretariat said that the situation was not in conformity on the first ground since Conclusions 2005. On the second ground the situation was not in conformity since Conclusions 2011. The third and fourth grounds were situations of non-conformity for the first time.

First ground of non-conformity

519. The Slovenian representative said that as far as the first ground of non-conformity "equal treatment of nationals of other state parties" was concerned, this issue had been dealt with already under Article 19§4 (the right of migrants to housing). Therefore the GC decided not to hold a discussion and agreed as for Article 19§4 (the right of migrants to housing).

Second, third and fourth ground of non-conformity

520. With regard to the remaining three grounds of non-conformity, the Slovenian representative said that the Government had been well aware that the current supply of non-profit rental housing (particularly in urban areas) was inadequate and resulted in long waiting periods. The problem had been addressed by the new National Housing Programme 2015–2025 adopted by the National Assembly of the Republic of Slovenia at the end of 2015 following several years of inter-ministerial coordination. The Slovenian Government stressed that the long waiting periods had been addressed by the introduction of a profit rent subsidy as a new instrument in 2009. A tenant who met the requirements for a non-profit rental dwelling, but was not allocated one because of the short supply, was eligible for a subsidy for renting a profit dwelling. The Slovenian representative informed the GC that additional statistics on this issue would be provided in the next report.

521. The GC took note of the information provided, asked the Slovenian government to provide all additional information on statistics and specific measures taken and decided to await the ECSR's next assessment.

Appendix I

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(1) 133rd meeting, Strasbourg, 9-13 May 2016
(2) 134th meeting, Strasbourg, 26-30 September 2016

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Appendix II

Table of signatures and ratifications – situation at 1 December 2016

MEMBER STATES	SIGNATURES	RATIFICATIONS	Acceptance of the collective complaints procedure
Albania	21/09/98	14/11/02	
Andorra	04/11/00	12/11/04	
Armenia	18/10/01	21/01/04	
Austria	07/05/99	20/05/11	
Azerbaijan	18/10/01	02/09/04	
Belgium	03/05/96	02/03/04	23/06/03
Bosnia and Herzegovina	11/05/04	07/10/08	
Bulgaria	21/09/98	07/06/00	07/06/00
Croatia	06/11/09	**26/02/03**	26/02/03
Cyprus	03/05/96	27/09/00	06/08/96
Czech Republic	04/11/00	**03/11/99**	04/04/12
Denmark *	03/05/96	**03/03/65**	
Estonia	04/05/98	11/09/00	
Finland	03/05/96	21/06/02	17/07/98 **X**
France	03/05/96	07/05/99	07/05/99
Georgia	30/06/00	22/08/05	
Germany *	29/06/07	**27/01/65**	
Greece	03/05/96	18/03/16	18/06/98
Hungary	07/10/04	20/04/09	
Iceland	04/11/98	**15/01/76**	
Ireland	04/11/00	04/11/00	04/11/00
Italy	03/05/96	05/07/99	03/11/97
Latvia	29/05/07	26/03/13	
Liechtenstein	**09/10/91**		
Lithuania	08/09/97	29/06/01	
Luxembourg *	11/02/98	**10/10/91**	
Malta	27/07/05	27/07/05	
Republic of Moldova	03/11/98	08/11/01	
Monaco	05/10/04		
Montenegro	22/03/05	03/03/10	
Netherlands	23/01/04	03/05/06	03/05/06
Norway	07/05/01	07/05/01	20/03/97
Poland	25/10/05	**25/06/97**	
Portugal	03/05/96	30/05/02	20/03/98
Romania	14/05/97	07/05/99	
Russian Federation	14/09/00	16/10/09	
San Marino	18/10/01		
Serbia	22/03/05	14/09/09	
Slovak Republic	18/11/99	23/04/09	
Slovenia	11/10/97	07/05/99	07/05/99
Spain	23/10/00	**06/05/80**	
Sweden	03/05/96	29/05/98	29/05/98
Switzerland	**06/05/76**		
«the former Yugoslav Republic of Macedonia»	27/05/09	06/01/12	
Turkey	06/10/04	27/06/07	
Ukraine	07/05/99	21/12/06	
United Kingdom *	07/11/97	**11/07/62**	
Number of States 47	**2**+ 45 = 47	**10** + 33 = 43	15

The **dates in bold** on a grey background correspond to the dates of signature or ratification of the 1961 Charter; the other dates correspond to the signature or ratification of the 1996 revised Charter.

***** States whose ratification is necessary for the entry into force of the 1991 Amending Protocol. In practice, in accordance with a decision taken by the Committee of Ministers, this Protocol is already applied.

X State having recognised the right of national NGOs to lodge collective complaints against it.

Appendix III

List of Conclusions of non-conformity examined orally following the proposal of the European Committee of Social Rights

RESC 7§1 ARMENIA
RESC 7§1 CYPRUS
RESC 7§1 ESTONIA
RESC 7§1 GEORGIA
RESC 7§1 HUNGARY
RESC 7§1 LITHUANIA
RESC 7§1 MOLDOVA (REPUBLIC OF)
RESC 7§1 NORWAY
RESC 7§1 SWEDEN
RESC 7§1 “THE FORMER YOUGOSLAV REPUBLIC OF MACEDONIA”
RESC 7§1 UKRAINE

RESC 7§3 ARMENIA
RESC 7§3 CYPRUS
RESC 7§3 ESTONIA
RESC 7§3 GEORGIA
RESC 7§3 LITHUANIA
RESC 7§3 MOLDOVA (REPUBLIC OF)
RESC 7§3 NORWAY
RESC 7§3 SLOVENIA
RESC 7§3 SWEDEN
RESC 7§3 “THE FORMER YOUGOSLAV REPUBLIC OF MACEDONIA”
RESC 7§3 TURKEY
RESC 7§3 UKRAINE

RESC 7§5 ARMENIA
RESC 7§5 AZERBAIJAN
RESC 7§5 ROMANIA
RESC 7§5 UKRAINE

RESC 7§10 ESTONIA
RESC 7§10 UKRAINE

RESC 8§1 AZERBAIJAN
RESC 8§1 BOSNIA AND HERZEGOVINA
RESC 8§1 SLOVAK REPUBLIC
RESC 8§1 TURKEY

RESC 8§2 BOSNIA AND HERZEGOVINA
RESC 8§2 LITHUANIA
RESC 8§2 TURKEY

RESC 16 AUSTRIA
RESC 16 AZERBAIJAN
RESC 16 BOSNIA AND HERZEGOVINA
RESC 16 HUNGARY
RESC 16 LATVIA
RESC 16 LITHUANIA
RESC 16 NORWAY
RESC 16 SERBIA

RESC 16 SLOVAK REPUBLIC

RESC 17§1 ARMENIA
RESC 17§1 BOSNIA AND HERZEGOVINA
RESC 17§1 MOLDOVA (REPUBLIC OF)
RESC 17§1 MONTENEGRO
RESC 17§1 RUSSIAN FEDERATION
RESC 17§1 SERBIA
RESC 17§1 SLOVAK REPUBLIC
RESC 17§1 SLOVENIA

RESC 17§2 HUNGARY
RESC 17§2 MOLDOVA (REPUBLIC OF)
RESC 17§2 SLOVAK REPUBLIC
RESC 17§2 TURKEY

RESC 19§4 CYPRUS
RESC 19§4 NORWAY
RESC 19§4 SLOVENIA

RESC 19§6 ARMENIA
RESC 19§6 AUSTRIA
RESC 19§6 CYPRUS
RESC 19§6 ESTONIA
RESC 19§6 LATVIA
RESC 19§6 NETHERLANDS
RESC 19§6 SERBIA
RESC 19§6 “THE FORMER YOUGOSLAV REPUBLIC OF MACEDONIA”
RESC 19§6 TURKEY

RESC 19§8 MOLDOVA (REPUBLIC OF)
RESC 19§8 SERBIA
RESC 19§8 SLOVENIA

RESC 31§1 LITHUANIA
RESC 31§1 SLOVENIA

RESC 31§2 NETHERLANDS
RESC 31§2 SLOVENIA
RESC 31§2 SWEDEN
RESC 31§2 TURKEY
RESC 31§2 UKRAINE

RESC 31§3 SLOVENIA

Appendix IV

List of deferred Conclusions

ANDORRA	RESC 7§1
ARMENIA	RESC 7§7, 19§3, 19§12
AUSTRIA	RESC 7§5
AZERBAIJAN	RESC 8§2
BOSNIA AND HERZEGOVINA	RESC 7§1, 17§2
CYPRUS	RESC 7§10, 19§1, 19§2, 19§8, 19§12
ESTONIA	RESC 27§2
GEORGIA	RESC 19§2, 19§12
HUNGARY	RESC 8§1
LATVIA	RESC 7§5, 7§10, 19§12, 31§1
LITHUANIA	RESC 7§5
MALTA	RESC 7§3, 7§5, 7§10
MOLDOVA (REPUBLIC OF)	RESC 7§10, 8§2, 8§3, 8§4, 8§5, 27§2
MONTENEGRO	RESC 7§4, 7§5, 7§9, 19§12, 27§1, 27§3
NETHERLANDS	RESC 19§3
NORWAY	RESC 7§5, 7§8, 17§1, 19§2, 31§2
ROMANIA	RESC 7§10, 8§1, 19§8
RUSSIAN FEDERATION	RESC 7§1, 7§3, 7§5, 7§6, 7§10, 17§2, 27§3
SERBIA	RESC 7§1, 7§3, 7§5, 7§6, 7§9, 7§10, 8§1, 8§3, 8§5, 17§2, 19§3, 19§4, 19§7, 19§9
SLOVAK REPUBLIC	RESC 19§6, 27§3
SLOVENIA	RESC 7§5
‘THE FORMER YOUGOSLAV REPUBLIC OF MACEDONIA”	RESC 8§1, 17§1, 17§2, 19§1, 19§8, 27§3
TURKEY	RESC 7§2, 19§2
UKRAINE	RESC 17§1, 27§2

Appendix V

Warning(s) and Recommendation(s)

Warning(s)[5]

Article 7§10 (Special protection against physical and moral dangers)

– Ukraine
Legislation criminalises child prostitution only until the age of 16; legislation does not criminalise child pornography until the age of 18; legislation considers simple possession of child pornography not a criminal offence.

Recommendation(s)

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Renewed Recommendation(s)

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[5] If a warning follows a notification of non-conformity, it serves as an indication to the state that, unless it takes measures to comply with its obligations under the Charter, a recommendation will be proposed in the next part of a cycle where this provision is under examination.