



European
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Charter

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**European Committee of Social Rights
Comité européen des Droits sociaux**

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

RUSSIAN FEDERATION

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I. SUMMARY

With respect to the procedure provided by Article 22 of the 1961 Charter – examination of non-accepted provisions - the Committee of Ministers in December 2002 decided that "states having ratified the revised European Social Charter should report on the non-accepted provisions every five years after the date of ratification" and had "invited the European Committee of Social Rights to arrange the practical presentation and examination of reports with the states concerned" (Decision of the Committee of Ministers of 11 December 2002).

Following this decision, the European Committee of Social Rights examines - in a meeting or by written procedure - the actual legal situation and the situation in practice in the countries concerned from the point of view of the degree of conformity of the situation with non-accepted provisions. This review is done for the first time five years after the ratification of the revised European Social Charter, and every five years thereafter, to assess the situation on an ongoing basis and to encourage States to accept new provisions. Indeed, experience has shown that States tend to overlook that the selective acceptance of the provisions of the Charter should be only a temporary phenomenon and not a rule.

The Russian Federation ratified the Charter on 16 October 2009, accepting 67 of its 98 paragraphs. The following provisions are not yet accepted: Articles 2§2, 4§1, 12§2, 12§3, 12§4, 13§1, 13§2, 13§3, 13§4, 15§3, 18§1, 18§2, 18§3, 19§1, 19§2, 19§3, 19§4, 19§6, 19§7, 19§8, 19§10, 19§11, 19§12, 23, 25, 26§1, 26§2, 30, 31§1, 31§2 and 31§3.

The procedure provided for in Article 22 of the 1961 Charter was applied for the first time in the context of an exchange of views organised by the Committee on Labour, Social Policy and Veterans Affairs of the State Duma in Moscow on 10 April 2015. The information provided at that meeting was supplemented by technical information on the situation in law and practice as regards the non-accepted provisions of the Charter, sent to the European Committee of Social Rights by the authorities of the Russian Federation on 23 July 2015.

On the basis of the information available, the European Committee of Social Rights concluded that there were no legal obstacles to the acceptance by the Russian Federation of the following provisions: Articles 2§2, 12§3, 13§2, 13§3, 15§3, 19§1, 19§3, 19§4, 19§10, 23 and 31§1¹.

With a view to carrying out the procedure for the second time in 2019, the authorities of the Russian Federation were invited to provide written information on the non-accepted provisions of the Charter.

After examining the written information provided by the Government of the Russian Federation on 9 September 2019, the European Committee of Social Rights considers that there are no major obstacles to the acceptance by the Russian Federation of Articles 2§2, 12§3, 13§3, 15§3, 19§1, 19§3, 19§4 (a) and (b), 25 and 31§1 of the Charter.

The Committee is of the opinion that the Russian Federation is in a position to meet, in the near future, the conditions enabling it to comply with the requirements of Article 4§1 of the Charter. It encourages the authorities to pursue its policy in this direction.

It considers that the current legal situation and practice in the Russian Federation should be further improved to meet the requirements of Articles 12§4, 13§1, 18§2, 18§3, 19§2, 19§4(c), 19§6, 19§7, 19§8, 19§11, 19§12, 23, 26§1, 26§2, 30, 31§2 and 31§3 of the Charter.

¹See the 1st report of the European Committee of Social Rights on non-accepted provisions of the Charter by the Russian Federation on the following address: <https://www.coe.int/fr/web/european-social-charter/the-russian-federation-and-the-european-social-charter>

The Committee needs more detailed information to reach a firm opinion on the level of conformity of the situation with the requirements of the Charter as regards to Articles 12§2, 13§2, 13§4, and 19§10 of the Charter.

The Committee encourages the Russian Federation to consider accepting additional provisions of the Charter as well as the 1995 Additional Protocol providing for a system of collective complaints as soon as possible, so as to make full use of the Charter to guarantee and promote social rights in the interest of all.

The European Committee of Social Rights remains at the disposal of the authorities of the Russian Federation for continued dialogue on the non-accepted provisions.

The next examination of the provisions not accepted by the Russian Federation will take place in 2024.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

Article 2§2 - Right to just conditions of work - Public holidays with pay

Situation in the Russian Federation

The report of the Government states that the legislation of the Russian Federation with regard to the rules on public holidays complies with the requirements of the European Social Charter.

The right to rest is guaranteed by the Constitution. In conformity with Article 37 paragraph 5 of the Constitution of the Russian Federation, the fixed duration of working time, days of rest and public holidays, as well as the annual paid leave fixed by federal law, are guaranteed to those who work under employment contract.

The Labour Code of the Russian Federation (together with the Federal Act No. 125-FZ of 18 June 2017 amending the Labour Code of the Russian Federation) defines in detail the conditions of remuneration for public holidays.

Opinion of the Committee

As a rule, work should be prohibited during public holidays. However, work can be carried out on public holidays under specific circumstances set by law or collective agreements.

Work performed on a public holiday entails a constraint on the part of the worker, who should be compensated. Considering the different approaches adopted in different countries in relation to the forms and levels of such compensation and the lack of convergence between States Parties in this regard, States Parties enjoy a margin of appreciation on this issue, subject to the requirement that all employees are entitled to an adequate compensation when they work on a public holiday.

In the light of the information provided, the current legal situation and practice in the Russian Federation and the fact that the situation has been considered in conformity with the requirements of the Charter since the report established in 2015, the Committee reiterates its opinion that there are no major obstacles to the acceptance by the Russian Federation of Article 2§2 of the Charter and, consequently, it invites the authorities to consider accepting this provision in the near future.

Article 4§1 - Right to a fair remuneration - Decent remuneration

Situation in the Russian Federation

Article 37 paragraph 3 of the Constitution of the Russian Federation states that “Everyone shall have the right to labour conditions meeting the safety and hygienic requirements, for labour remuneration without any discrimination whatsoever and not lower than minimum wages and salaries established by the federal law, as well as the right to protection against unemployment”.

In accordance to Article 15§4 of the Constitution (“ If an international treaty or agreement of the Russian Federation fixes other rules than those envisaged by law, the rules of the international agreement shall be applied”), labour legislation standards are based, inter alia, on generally accepted principles and standards of international law and international treaties, in particular the provisions of the International Covenant on Economic, Social and Cultural Rights (ratified by the Russian Federation on 16 October 1973) concerning the recognition of the right of everyone to the enjoyment of just and favourable conditions of work that guarantee fair and equal remuneration for work of equal value without discrimination.

According to the relevant provisions of the Labour Code of the Russian Federation, the employer shall ensure that workers receive equal pay for work of equal value. Each workers' salary will depend on his or her skills, the complexity of the work performed and its quantity and quality. The Labour Code provides that the monthly salary of an employee who has worked all nominal hours in that period and has performed his or her duties should not be lower than the minimum wage. The procedure and duration of the progressive increase of the minimum wage to the rate provided for in article 133§1 of this Code shall be determined by a federal law.

Federal Act No. 421-FZ of 28 December 2017 amending certain legislative texts of the Russian Federation concerning the increase of the minimum wage to the subsistence minimum for the population of working age, established a permanent mechanism to set the minimum wage at 100 per cent of the effective subsistence minimum for the entire Russian Federation, on the basis of the second quarter of the previous year. According to the Federal Act, as of 1 May 2018 the minimum wage was set at RUB 11,163.

At the same time, in order to take into account regional particularities and the differentiation of remuneration of workers performing the same function in different working conditions, the Labour Code of the Russian Federation (Article 133.1) gives subjects of the Russian Federation the right to set the minimum wage in their jurisdiction. However, the minimum wage cannot be less than the minimum wage set by Federal Act.

Labour relations regulatory issues, including wages, are negotiated within the multi-level social partnership system. The new regional minimum wage rate is adopted by a tripartite commission responsible for regulating social and labour relations. If there are valid reasons (e.g. business start-up, financial crisis, emergency situations), an employer may refuse to sign a tripartite agreement on the minimum wage in the region. The law provides for a period of 30 calendar days from the date of publication of the agreement to decline.

Fines are provided for wages below the minimum wage: 50,000 roubles for the company, RUB 20,000 for the entrepreneur and RUB 5,000 for individual entrepreneurs (Parts 6 and 7 of Article 5.27 of the Administrative Code of the Russian Federation).

The report concludes that the evolution of the legislation of the Russian Federation is moving towards the achievement of the standards established by Article 4§1 of the Charter (50% of the national average wage). Thus, even if it has not yet accepted it, the Russian Federation is already fulfilling its international obligations to set the minimum wage at a decent level. The

Russian Federation is therefore in a position to comply with requirements of Article 4§1 of the Charter.

Opinion of the Committee

Article 4§1 guarantees the right to a fair remuneration such as to ensure a decent standard of living. It applies to all workers, including to civil servants and contractual staff in the state, regional and local public sectors, to branches or jobs not covered by collective agreement, to atypical jobs (assisted employment) and to special regimes or statuses (minimum wage for migrant workers).

The concept of “decent standard of living” goes beyond merely material basic necessities such as food, clothing and housing, and includes resources necessary to participate in cultural, educational and social activities.

To be considered fair within the meaning of Article 4§1, the minimum wage paid in the labour market must not fall below 60% of the net average national wage. The assessment is based on net amounts, i.e. after deduction of taxes and social security contributions. Where net figures are difficult to establish, it is for the State Party concerned to provide estimates of this amount.

If the lowest wage in a given State Party does not satisfy the 60% threshold, but does not fall very far below (in practice between 50% and 60%), the Government in question will be invited to provide detailed evidence that the lowest wage is sufficient to give the worker a decent living standard even if it is below the established threshold. In particular, consideration will be given to the costs of having health care, education, transport, etc.

The Committee welcomes the efforts made by the Russian Federation to ensure decent wages for workers. It encourages the authorities to continue along this path in order to ensure decent remuneration for all workers, including assisted employments and migrant workers.

In the light of the information available, the Committee is of the opinion that the Russian Federation is in a position to meet in the near future the conditions enabling it to comply with the requirements of Article 4§1 of the Charter. It encourages the authorities to pursue its policy in this direction.

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

Situation in the Russian Federation

On 3 October 2018, following approval by the Committee on Labour, Social Policy and Veterans' Affairs, the Federal Assembly of the Russian Federation (State Duma) adopted Federal Law No. 349-FZ on the ratification of the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102). It accepted the obligations for seven of the nine Parts of the Convention - those related to medical care, sickness benefit, old-age benefit, employment injury benefit, maternity benefit, invalidity benefit and survivors' benefit (Sections II, III, V, VI, VIII, IX and X). On 26 February 2019, the Russian Federation deposited with the ILO the instruments of ratification of the Convention.

It has not signed and therefore not ratified the European Code of Social Security.

As regards the old-age benefit (Part V), invalidity benefit (Part IX) and survivors' benefit (Part X), the ILO Convention No.102 defines the long-term types of security (pension). These Sections of the Convention No.102 are implemented in the Russian Federation within the relevant provisions of federal laws (No. 167-FZ of 15 December 2001 “On Compulsory Pension Insurance in the

Russian Federation”, No. 166-FZ of 15 December 2001 “On State Pension Provision of the Russian Federation” and No. 400-FZ of 28 December 2013 “On Insurance Pensions”), which comply with the requirements and standards of the Convention for old-age benefit, survivors’ benefit and invalidity benefits. The report observes that in the Russian Federation one of the conditions for receiving an old-age insurance pension is to have completed at least 15 years of qualifying period, whereas the Convention requires 30 years’ payment of contributions.

According to the law (Federal Law No. 350-FZ of 3 October 2018 “On Amendments to Certain Legislative Acts of the Russian Federation on the Purpose and Payment of Pension”), the generally established retirement age is 65 for men and 60 for women (currently 60 and 55 respectively). The increase in the retirement age will be gradual: the transition period is expected to last 10 years: from 1 January 2019 to 2028. The law does not provide for the suspension or cessation of payment of the old-age insurance pension in the event of work being continued.

Bearing in mind Article 73 of the ILO Convention No. 102 (“This Convention shall not apply to (a) contingencies which occurred before the coming into force of the relevant Part of the Convention for the Member concerned; (b) benefits in contingencies occurring after the coming into force of the relevant Part of the Convention for the Member concerned in so far as the rights to such benefits are derived from periods preceding that date”), the authorities of the Russian Federation consider that, with regard to pensions, the legal obligation to maintain a rate of remuneration of at least 40% of the previous salary only concerns the pensions of future pensioners, who will claim their pension rights after the entry into force of the Convention in the Russian Federation. By contrast, the European Social Charter requires that the social security system be maintained at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security.

In this context, it seems reasonable for the authorities of the Russian Federation to analyse the fulfillment of the obligations undertaken upon ratification of the Convention over a sufficiently long time to identify possible legal conflicts and gaps in legal regulation before proceeding to the acceptance of the relevant provisions of the Charter.

Furthermore, the report of the Government quotes legislation and figures regarding the following:

- unemployment benefit (Federal Law No. 350-FZ, Decree of the Government of the Russian Federation No. 1423 of 24 November 2017, Decree of the Government of the Russian Federation No. 1375 23 of 15 November 2014);

The minimum and maximum amounts of unemployment benefits are set annually by the Government of the Russian Federation. In 2018, the minimum benefit was RUB 850 per month, and the maximum – RUB 4,900 (Decree of the Government of the Russian Federation No. 1423 of 24 November 2017).

For 2019, for all categories of unemployed citizens (except those in early retirement) the minimum amount is RUB 1,500, and maximum – RUB 8,000. For persons of pre-retirement age (five years before the age of eligibility for an old-age insurance pension, including early retirement), RUB 1,500 and up to RUB 11,280, respectively (Decree of the Government of the Russian Federation No. 1375 23 of 15 November 2014). Consequently, in relation to the minimum subsistence level of the working-age population established for the Russian Federation, as a whole, for 2019, the maximum amount of unemployment benefits in 2019 will be 7 per cent, and the minimum - 13 per cent.

- sickness benefit (temporal incapacity for work), maternity benefit

The payment of sickness benefit (temporary incapacity for work) and maternity benefit, is at the expense of the insurance contributions paid by the employer to the Social Insurance Fund of the Russian Federation on the worker's (insured person's) salary. The amount of the specified

maximum base for insurance contributions is set by the Government of the Russian Federation. Insurance contributions to the Social Insurance Fund of the Russian Federation shall not be paid from the worker's salary in excess of the specified amount.

The temporary disability benefit for illness or injury is paid to an insured person with a qualifying period of 8 years or more - in the amount of 100 per cent of average earnings; to an insured person with a qualifying period of 5 to 8 years - in the amount of 80 per cent of average earnings; and to an insured person with qualifying period up to 5 years - in the amount of 60 per cent of average earnings.

The maximum amount of temporary disability benefit is determined on the basis of the maximum amount of salary insurance contributions, and, as from 1 January 2018, the maximum amount of benefits is RUB 61,375.

Maternity benefit is paid at 100 per cent of the average salary of the active woman's insurance contributions paid to the Social Insurance Fund of the Russian Federation for compulsory social benefits in the event of temporary disability and in connection with maternity. As from 1 January 2018, the maximum amount of maternity benefit is 61.375 roubles on average per month.

The duration of the maternity benefit payment is 140 calendar days; in the case of complicated childbirth - 156 calendar days and in the case of multiple pregnancies - 194 calendar days. After the end of maternity leave, working women are granted leave to care for a child until his/her age of 3. During this leave and until the child reaches the age of 1.5 years, a monthly childcare benefit is paid.

The monthly childcare benefit is paid at 40 per cent of the insured person's average salary, but not below the minimum amount which, since 1 February 2018, has been RUB 3,142.33 for the care of the first child and RUB 6,284.65 for the care of the second child. The maximum amount of benefit averages is RUB 24,502.98 per month.

- employment injury benefit - compulsory social insurance against industrial accidents and occupational diseases (Federal Law No. 165-FZ of 16 July 1999, Federal Law No. 125-FZ of 24 July 1998);

The benefit for temporary incapacity for work in the event of an accident at work and an occupational diseases is paid at a rate of 100 per cent of the insured person's average salary. A lump sum insurance benefit is paid to the insured person and the entitled persons in the event of the insured person's death. The amount of the lump-sum insurance benefit is determined according to the degree of loss of professional ability and on the basis of the maximum amount set by Federal Law No. 125-FZ. From February 2018 to January 2019 this sum amounted to RUB 96,368.45.

Compulsory social insurance against accidents at work and occupational diseases is financed by the Social Insurance Fund of the Russian Federation.

Opinion of the Committee

Under Article 12§2, the right to social security implies to maintain the social security system at a satisfactory level, at least equal to that necessary for the ratification of the European Code of Social Security.

The Committee noted that the Russian Federation has not ratified the European Code of Social Security but it recalls that when a State Party has not ratified the Code, the Committee may make its own assessment of conformity with Article 12§2. Findings under Article 12§1 are also taken into account. The non-ratification of the Code is therefore not in itself an obstacle to acceptance of Article 12§2 of the Charter.

The Committee welcomes the ratification by the Russian Federation of the ILO Convention No. 102 concerning Social Security (Minimum Standards). The ratification of almost all Parts of this Convention (except unemployment and family benefits) demonstrates the commitment of the Russian Federation to maintain a sustainable and adequate social protection system and strengthen access of the population to social rights. The accepted Parts of the ILO Convention correspond to the same numbered Parts of the European Code of Social Security, namely Parts II (medical care), III (sickness benefit), V (old-age benefit), VI (employment injury benefit), VIII (maternity benefit), IX (invalidity benefit) and X (survivor's benefit).

The Russian Federation has therefore undertaken the majority of the same requirements as under the European Code of Social Security.

The Committee welcomes the positive developments in the Russian Federation with regard to the implementation of the social security system at a satisfactory level, but would need more detailed information to reach a firm opinion on the level of conformity of the situation with Article 12§2 of the Charter. The Committee encourages the authorities of the Russian Federation to continue their efforts to improve the social security system and to consider the acceptance of Article 12§2 of the Charter.

Article 12§3 - Right to social security - Development of the social security system

Situation in the Russian Federation

The social security system of the Russian Federation operates at the federal, regional and local levels in three organizational and legal forms:

- compulsory social insurance;
- at the expense of the federal budget and budgets of the subjects of the Russian Federation;
- State social assistance.

From the point of view of the personal scope and amount of funding, the main organisational and legal form is compulsory social insurance.

Personal scope of application: persons subject to compulsory social insurance are determined by law (Federal Law No. 165-FZ of 16 July 1999 “ On Compulsory Social Insurance Fundamentals”, as well as federal laws on specific types of compulsory social insurance, including Federal Law No. 167-FZ of 15 December 2001 “On Compulsory Pension Insurance in the Russian Federation”; Federal Law No. 255-FZ of 29 December 2006 “On Compulsory Social Insurance for Temporary Disability and in Connection with Maternity”; Federal Law No. 326-FZ of 29 November 2010 “On Compulsory Medical Insurance in the Russian Federation”).

Separate categories of persons are insured only for certain types of compulsory social insurance.

The main category of insured persons consists of persons working under employment contracts or civil law contracts, the purpose of which is the performance of work and the provision of services, as well as self-employed persons (including individual entrepreneurs, lawyers, arbitration managers, etc.). One of the basic principles of compulsory social insurance is the obligation to pay insurance contributions.

The arrangements for the calculation and payment of insurance contributions to the State's extra-budgetary funds, as from 1 January 2017, are governed by Chapter 34 - Insurance Contributions, Tax Code of the Russian Federation.

The report points out that Federal Act No. 165-FZ of 16 July 1999 lists all types of benefits and pensions provided for in ILO Convention No. 102 on Social Security (minimum standards) and the European Code of Social Security. Russian legislation therefore corresponds, according to specified criteria, to both instruments.

The second organisational form of the social security system is the provision at the expense of the federal budget and budgets of the subjects of the Russian Federation. This formula covers all categories of civil servants.

In accordance with Federal Law No. 166-FZ of 15 December 2001, the following types of pensions are granted:

- retirement pension;
- old-age pension;
- disability pension;
- the survivor benefit;
- social pension.

The right to retirement pension for state civil servants of the subjects of the Russian Federation and municipal officials is determined by the laws and other regulatory legal acts of the subjects of the Russian Federation and the acts of local authorities, with the exception of the uniform requirements provided for by Federal Law 166-FZ for all state civil servants and municipal officials - the duration of public (municipal) service may not be less than 20 years and the assignment of this pension to the old-age (disability) insurance pension or early retirement is made in accordance with Russian legislation No 1032-1 of 19 April 1991 "On employment in the Russian Federation".

The pension of federal state civil servant is determined by the following conditions:

- the duration of the period of the state civil service, determined in accordance with the annex to Federal Act No. 166-FZ of 15 December 2001 "On State Pension Provision in the Russian Federation" (from 1 January 2017, the minimum required duration is 15.5 years, which increases by six months per year to reach 20 years in 2026 and subsequent years);
- the filling of a vacancy in the civil service of a federal state for at least 12 full months;
- dismissal for the reasons provided by law.

Entitlement to pensions under the State pension scheme is granted to foreign nationals and stateless persons permanently residing in the territory of the Russian Federation on the same grounds as citizens of the Russian Federation.

The pension scheme for military personnel is governed by two laws, depending on the type of military service. The pension rights of servicemen are governed by Law No. 4468-1 of 12 February 1993 "On State Pension Provision of Military Personnel" and that of conscripts - by Federal Law No. 166-FZ of 15 December 2001 "On State Pension Security in the Russian Federation". In the first case, the law provides for the following types of pensions: retirement pension, disability pension and survivors' benefit. The second case concerns only disability and survivors' benefits.

The duration of military service, i.e. the date of its beginning and end, is determined in accordance with Federal Law No. 53-FZ of 28 March 1998 "On Military Duty and Military Service in the Russian Federation".

Finally, State social assistance or social pension is a payment that provides a means of subsistence for persons who are not entitled to other types of pensions.

The beneficiaries of public social assistance are the poorest. The basis of their funding is the level of individual or family income per capita. If it is below the subsistence minimum, the family (single household) is considered poor and is entitled to social assistance from the State. The right to social

assistance does not depend on employment or the payment of compulsory insurance contributions. State social assistance is financed at the expense of budgets at various levels, including the federal level.

The amount of social pensions is indexed periodically. In addition, persons with disabilities benefit from various advantages (free public transport, free and reduced-price provision of medicines, free and reduced prices for spa treatments, housing assistance, etc.)

In accordance with Federal Law No. 82-FZ of 30 April 1999 "On Guarantees of Rights to Low-numbered Peoples of the Russian Federation", the right to a social pension is guaranteed to persons working and living in the extreme north regions and equivalent areas, in the territories of the traditional settlement of their ancestors preserving the traditional way of life and craftsmanship with less than 50,000 people and self-confident independent ethnic communities. The single list of indigenous minorities was approved by Government Decree No. 255 of 24 March 2000.

The report concludes that the provision at the expense of the federal budget and the budgets of subjects of the Russian Federation is a form of implementation of the right to social security for special entities and covers all categories of state civil servants, as well as other persons specified in federal laws. The amount of the social pension increases periodically and the amount of the social pension currently exceeds the subsistence minimum for pensioners (except for pensions for persons with disabilities, group III).

With regard to the personal scope of compulsory social insurance, in accordance with Federal Law No. 165-FZ of 16 July 1999 "On Compulsory Social Insurance Fundamentals" compulsory social insurance applies to all categories of working citizens.

Work to bring legislation in line with the principle of universality is ongoing (i.e; the improvement of the State benefit system for citizens with children, the exemption of certain categories of disadvantages employed citizens from the compulsory payment of contributions for certain types of social security).

The report concludes that Russian legislation complies with the standards of ILO Convention No. 102 and the European Code of Social Security, since 100 per cent of workers are covered by social insurance, 100 percent of individual entrepreneurs, private notaries and lawyers, persons providing services under civil law contracts, are covered by a compulsory pension and medical insurance.

Then the report of the Russian Federation highlights the steady increase in pensions and benefits.

The right to social security is reflected in the constitutional obligation of the State to provide everyone with the means of subsistence to the extent necessary for a decent life. However, not all pensions and benefits reach the subsistence minimum, and therefore do not guarantee the recipients a "decent standard of living".

The total amount of material assistance granted to a pensioner residing in the Russian Federation, not engaged in a professional activity and/or other activities during which he/she is subject to compulsory pension insurance (Federal Law No. 167-FZ of 15 December 2001 "On Compulsory Pension Insurance in the Russian Federation"), the pension or pensions fixed in accordance with Russian laws, may not be less than the subsistence minimum for pensioners (Federal Law No. 134-FZ of 24 October 1997 "On Subsistence Minimum in the Russian Federation") in the subjects of the Russian Federation (Federal Law No. 178-FZ of 17 July 1999 "On State Social Assistance"). For these purposes, a federal or regional social supplement to a pension is established.

Furthermore, the report recalls the legislation and data concerning unemployment benefit, sickness benefit (temporary incapacity for work), maternity benefit, employment injury benefit (compulsory

social insurance against industrial accidents and occupational diseases) and pensions. In concluding the provided information, the report notes that Russian legislation establishes mechanisms to increase pensions and benefits taking into account the consumer price index and the wage index.

Opinion of the Committee

The Committee recalls that Article 12§3 of the Charter requires States Parties to improve their social security system. A situation of progress may consequently be in conformity with Article 12§3 even if the requirements of Articles 12§2 has not yet been accepted.

The assessment of the situation is based on the following criteria:

- the nature of the changes (field of application, conditions for granting allowances, amounts of allowance, etc.);
- the reasons given for the changes and the framework of social and economic policy in which they arise;
- the extent of the changes introduced (categories and numbers of people concerned, levels of allowances before and after alteration);
- the necessity of the reform;
- the existence of measures of social assistance for those who find themselves in a situation of need as a result of the changes made (this information can be submitted under Article 13);
- the results obtained by such changes.

Any changes to a social security system must ensure the maintenance of a basic compulsory social security system which is sufficiently extensive.

In the light of the information provided, the Committee reiterates its opinion that there are no major obstacles to the acceptance by the Russian Federation of Article 12§3 of the Charter and, consequently, it invites the authorities to consider accepting this provision in the near future.

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

Situation in the Russian Federation

The report of the authorities of the Russian Federation quotes several laws that apply to the exercise of the right to social security by foreigners, in particular:

- Federal Law No. 400-FZ of 28 December 2013 “On Insurance Pensions”;
- Federal Law No. 255-FZ of 29 December 2006 “On Compulsory Social Insurance for Temporary Disability and in Connection with Maternity”;
- Federal Law No. 125-FZ of 24 July 1998 “On Compulsory Social Insurance Against Industrial Accidents and Occupational Diseases”;
- Federal Law No. 165-FZ of 16 July 1999 “On Compulsory Social Insurance Fundamentals” ;
- Federal Law No. 326-FZ of 29 November 2010 “On Compulsory Medical Insurance in the Russian Federation”;
- Federal Law No. 115-FZ of 25 July 2002 “On Legal Status of Foreign Citizens in the Russian Federation”;
- Federal Law No. 4528-1 of 19 February 1993 “On Refugees”;
- Federal Law No. 323-FZ of 21 November 2011, “On Citizen Health Protection Fundamentals in the Russian Federation”;
- Federal Law No. 81-FZ of 19 May 1995, “On State Benefits for Citizens with Children”;
- Treaty on the Eurasian Economic Union of 29 May 2014, ratified by the Federal Law No. 279-FZ of 3 October 2014 “On Ratification of the Treaty on the Eurasian Economic Union”;
- CIS Agreement of 13 March 1992 “On Guaranteeing Rights of Citizens of CIS-Countries in the Field of Pension Provision”;

Agreement between the Government of the Russian Federation and Government of the Republic of Moldova of 10 February 2019 on guaranteeing rights of citizens in the field of pension provision;

Interim agreement between the Government of the Russian Federation and Government of Ukraine of 15 January 1993 on guaranteeing rights of citizens working in the regions of the Extreme North and equivalent areas in the field of pension provision;

CIS Agreement of 09 September 1994 “On guaranteeing rights of citizens in the field of social benefits, compensation payments to families with children and alimony”;

Agreement of the Governments of the CIS-Countries dated of 27 March 1997 “On provision of medical care to citizens of the CIS-Countries”;

Social Security Agreement of 11 April 1994 between the Russian Federation and the Kingdom of Spain;

Agreement between the Russian Federation and the Republic of Belarus of 24 January 2006 “Cooperation in the Field of Social Security”.

The report highlights that the legislation of the Russian Federation is currently based on the principles of territoriality and reciprocity in determining the right to social security of persons who are not citizens of the Russian Federation. The acceptance of Article 12§4 of the Charter therefore seems premature.

Opinion of the Committee

Given the information provided, the Committee wishes to encourage authorities to take necessary measures, which will bring the situation into conformity with Article 12§4 of the Charter, and thus allowing the acceptance of this provision.

Article 13§1 - The right to social and medical assistance - Adequate assistance for every person in need

Situation in the Russian Federation

As in their 1st report on non-accepted provisions of the Charter, the authorities of the Russian Federation point out that the legislation and practice of the Russian Federation are not in conformity with Article 13§1 of the Charter, since the average family income, when deciding whether or not to qualify the family as poor and provide public social assistance, is calculated by dividing one third of the income of all family members for the billing period by the number of family members, rather than 50% of the equivalent average income according to Eurostat.

The report recalls that the amount of the aid is not directly indicated in the laws but is determined by the territorial social security bodies. This means that it is very likely that decisions will be taken on a discretionary basis by these bodies, depending on the budgetary funds available. Foreign nationals temporarily residing in the Russian Federation are not entitled to state social assistance.

The report reiterates the conclusion communicated to the Committee during the previous implementation of the procedure on non-accepted provisions, that acceptance of Article 13§1 seems unlikely and, if this provision is accepted, the Russian Federation will have to make significant amendments to the law governing access to social assistance, as well as a substantial increase in financial expenditure for this purpose.

Opinion of the Committee

The Committee notes that no progress has been made in the Russian Federation in the last five years to ensure respect of the right to adequate social and medical assistance for every person in need.

The Committee therefore reiterates its call on the Russian authorities to continue their efforts to increase the amount of assistance, to ensure equal treatment of foreign nationals targeted by the Charter and to provide adequate social assistance throughout the territory of the Federation, which will bring the situation into conformity with Article 13§1 of the Charter, and thus allowing the acceptance of this provision.

Article 13§2 - The right to social and medical assistance - Non-discrimination in the exercise of social and political rights

Situation in the Russian Federation

In accordance with Article 19 of the Constitution of the Russian Federation “The State shall guarantee the equality of rights and freedoms of man and citizen, regardless of sex, race, nationality, language, origin, property and official status, place of residence, religion, convictions, membership of public associations, and also of other circumstances. All forms of limitations of human rights on social, racial, national, linguistic or religious grounds shall be banned”.

Article 21 of the Constitution of the Russian Federation states that “Human dignity shall be protected by the State. Nothing may serve as a basis for its derogation”.

The report of the Russian Federation then mentions the rights and related legislation that ensures non-discrimination in their exercise, such as electoral rights, the right to organise, the right of the child to subsistence (food, clothing, medical treatment, education and any other needs of the child), the right of mothers and children to be protected, the right to housing under a social rental contract, the right of the poor to health protection and medical assistance, the right of every individual to judicial protection of his or her rights and freedoms.

The report points out that in the Russian Federation there are no cases where legal acts establish relationship between the possibility of exercising one's rights and the fact of receiving social assistance in any form. For persons who do not have documents confirming their identity and who do not have a fixed abode, a mechanism for socialization and participation in the process of realizing political and other rights is provided.

The report concludes that this provision of the Charter can be accepted by the Russian Federation. However, there is still a need to adapt legislation on social protection for homeless people.

Opinion of the Committee

The Committee welcomes recent legislative developments aimed at ensuring respect of the principle of non-discrimination in the exercise of social and political rights in the Russian Federation.

It reiterates its opinion that there are no major obstacles for the Russian Federation to accept Article 13§2 of the Charter, provided that the practice follows the legislation.

The Committee therefore invites the authorities of the Russian Federation to provide it with information on the practical application of the relevant legislation to enable it to assess the actual situation, and encourages the authorities to ensure that social rights are respected in practice in accordance with Article 13§2 of the Charter.

Article 13§3 - The right to social and medical assistance - Prevention, abolition or alleviation of need

Situation in the Russian Federation

The Russian Federation has introduced the provision of State social assistance to families and citizens living alone without adequate resources on the basis of a social contract aimed at improving the quality of life of these population groups by strengthening their adaptive capabilities. As a consequence, low income families and citizens living alone receive all the advice and individual assistance necessary to increase the level of income and overcome difficult situations.

The report concludes that Article 13§3 of the Charter can be accepted by the Russian Federation.

Opinion of the Committee

The Committee notes that the situation has been found to be in conformity with the requirements of the Charter since the report established in 2015 and that the Russian authorities have already expressed their readiness to accept it at that time. Consequently, it reiterates its opinion that there are no major obstacles to the acceptance by the Russian Federation of Article 13§3 of the Charter and therefore invites the authorities to consider immediately accepting this provision.

The Committee recalls that nationals of Contracting Parties working regularly or residing legally within the territory of another Contracting Party must have access to advice and personal help offered by social services on the same conditions as nationals.

Article 13§4 - The right to social and medical assistance - Specific emergency assistance for non-residents

Situation in the Russian Federation

The report confirms that the Russian Federation has no grounds to accept Article 13§4 of the Charter prior to the ratification of the European Convention on Social and Medical Assistance of 11 December 1953.

Opinion of the Committee

The Committee recalls that the ratification of the 1953 European Convention on Social and Medical Assistance is not a prerequisite to the acceptance of Article 13§4. Governments not Parties to this Convention may ratify the Charter with respect to this paragraph provided that they grant to nationals of other Parties treatment consistent with the provisions of this Convention.

As in 2015, the Committee cannot comment on the possibility of accepting this provision by the Russian Federation given that the national report does not contain information on the situation in the Russian Federation on this point.

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

Situation in the Russian Federation

Following the Russian Federation's ratification in 2012 of the UN Convention on the Rights of Persons with Disabilities, the necessary legal framework was developed and adopted to ensure to persons with disabilities the effective exercise of the right to independence, full social integration and participation in the life of society.

The report of the Russian Federation describes the legislation and practical measures adopted to this effect, such as technical aids to overcome barriers to communication and mobility and to facilitate access to transport, housing, cultural activities and leisure. The new legislation, in accordance with the principles of "inclusion" and "non-discrimination", defines the obligations of the

State and society to create clearly defined conditions for the accessibility of facilities and services for people with disabilities in order to enable them to enjoy an independent life. The law defines and prohibits discrimination on the basis of disability.

The requirements of the UN Convention are applied in all administrative regulations relating to the delivery of public and municipal services. Coordination of the implementation of the provisions of the Convention is ensured by the Commission on the Affairs of Persons with Disabilities, under the President of the Russian Federation.

Since 2011, the State Programme for 2011-2020 on Accessible Environment, approved by the Government of the Russian Federation in December 2015, has been implemented in the country. This Programme has been extended until 2025 (Decree of the Russian Federation No. 308-p of 23 February 2018).

Measures to implement the European Social Charter are foreseen, including in the plan for the Decade of Childhood in the Russian Federation.

The report concludes that Article 15§3 can be accepted by the Russian Federation taking into account the implementation of the UN Convention on the Rights of Persons with Disabilities.

Opinion of the Committee

The Committee welcomes the positive developments with regard to the guarantee of the rights of persons with disabilities and reiterates its opinion that, following the ratification of the UN Convention on the Rights of Persons with Disabilities, the conditions are met for the acceptance of Article 15§3 of the Charter. It encourages the Russian authorities to consider immediate acceptance of Article 15§3.

Article 18§1 - Right to engage in a gainful occupation in the territory of other States Parties - Applying existing regulations in a spirit of liberality

Situation in the Russian Federation

In accordance with the Federal Law "On the Legal Status of Foreign Citizens in the Russian Federation", foreign citizens enjoy the right to use their ability to work freely, to choose their occupation and profession, as well as to freely use their capacities and property for business and other activities not prohibited by law and subject to the restrictions imposed by this law.

The general procedure for the work activities of foreign citizens in the Russian Federation provides that the employer or client (work/services) has the right to have recourse to foreign workers if there is an authorisation to do so; the foreign citizen has the right to engage in work activities if he or she is 18 years old, holds a work permit or a patent.

Figures from the Ministry of the Interior of the Russian Federation show that the number of work permits issued to foreign nationals in accordance with the legislation of the Russian Federation is steadily decreasing. The report explains the decrease in the number of work permits issued as a result of changes in national and international legislation (expansion of the patent system and the list of persons exercising a professional activity without a work permit, as well as the signature of the Eurasian Economic Union Treaty).

The report concludes that the Russian Federation is in a position to accept Article 18§1 of the Charter.

Opinion of the Committee

The Committee recalls that the assessment of the degree of liberality used in applying existing regulations is based on figures showing the refusal rates for work permits. To this end, the figures supplied must be broken down by country and must also distinguish between first-time applications and renewal applications.

The information provided by the Russian Federation does not allow the Committee to express an opinion on the extent to which the situation in the country is in conformity with Article 18§1 of the Charter.

Article 18§2 - Right to engage in a gainful occupation in the territory of other States Parties - Simplifying existing formalities and reducing dues and taxes

Situation in the Russian Federation

The work permit is issued only to persons who have reached the age of 18 years, within the limits of quota set annually by the Government of the Russian Federation.

The report describes the procedures that have to be applied in this area and qualifies them as complex and lengthy.

In addition to these procedures, there are other requirements relating to the notification of a number of government agencies (tax authorities, employment agencies, migration authorities) on various issues regarding foreign workers already employed.

The report concludes that complying with all legal requirements in the Russian Federation is a difficult task for bona fide employers and foreign workers.

Opinion of the Committee

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

In addition, States have to make concrete efforts to progressively reduce the level of fees and other charges payable by foreign workers or their employers.

Information provided by the Russian Federation is very limited in this regard and does not allow the Committee to express an opinion on the extent to which the situation is in conformity with the requirements of the Charter on this point.

In the light of the information provided, the Committee invites the authorities to seek solutions to remove existing impediments to the acceptance of this provision.

Article 18§3 - Right to engage in a gainful occupation in the territory of other States Parties - Liberalising regulations

Situation in the Russian Federation

A foreign citizen temporarily residing in the Russian Federation is not entitled to change his or her place of residence in the territory of the subject of the Federation where he or she is authorised to temporarily reside, or to choose his or her place of residence outside the limits of the given subject of the Russian Federation (Federal Law "On Legal Status of Foreign Citizens in the Russian Federation", Article 13§2). The authorities of the Russian Federation consider that the mode of

residence and stay of foreign nationals on the territory of the Russian Federation could be seen by the Committee as offering too restrictive access for foreigners to the national labour market.

Russian domestic legislation imposes restrictions on access to a large number of jobs that could be occupied by foreign nationals and stateless persons. These restrictions apply to a broader category of jobs than those that are inherently connected with the protection of the public interest or national security and involve the exercise of public authority.

The residence permit is issued for a period of five years, if the foreign national has already lived in the Russian Federation for at least one year on the basis of the temporary residence permit. It may be extended for five years an unlimited number of times. The temporary residence permit, which confirms the right to reside in the Russian Federation until the residence permit is obtained, is issued for a period of three years within the limits of the quota set annually by the Government of the Russian Federation. A foreign citizen temporarily residing in the Russian Federation may only work in the territory of the subject of the Russian Federation where the work permit has been issued. The exceptions are for workers in certain jobs performed on the road or related to travel. Legislation does not provide for the gradual abolition of employment restrictions for foreign nationals residing for a certain time in the territory of the Russian Federation.

The report concludes that, in view of the above, acceptance of Article 18§3 of the Charter seems inappropriate.

Opinion of the Committee

The Committee takes note of the information provided by the authorities of the Russian Federation and observes that no information was available as regards the rights in the event of loss of employment.

In the light of the information provided, the Committee invites the authorities to seek solutions to remove the existing impediments to the acceptance of Article 18§3 of the Charter.

Article 19§1 - Right of migrant workers and their families to protection and assistance - Assistance and information on migration

Situation in the Russian Federation

The Federal Migration Service was abolished in 2016 and its functions and powers were transferred to the Ministry of Internal Affairs of the Russian Federation. Today, it is this Ministry that has the following competencies regarding rights of migrant workers: suspension of validity, cancellation of recruitment permits and recourse to foreign workers, delivery and cancellation of work permits for foreign nationals and stateless persons, and patents for foreign nationals and stateless persons; registration, delivery, extension and cancellation of visas; registration, delivery, refusal to deliver and cancellation of temporary residence permits; renewal and cancellation of residence permits for foreign nationals and stateless persons in the Russian Federation.

In order to inform foreign citizens who are considering carrying out temporary work activities on the territory of the Russian Federation, the official website of the Ministry of Internal Affairs contains all the necessary legal information for both the employer or client (works/services) and the foreign worker, including administrative regulations. The information on this site includes not only issues related to external labour migration, but also all areas related to the entry, exit, stay and residence on the territory of the Russian Federation of foreign citizens and stateless persons.

The report underlines that some minimum measures concerning the provision of accessible information on labour migration are being taken. However, the level of accessibility to information is insufficient and, in addition, the possibilities of obtaining free counseling services are limited. If Article 19§1 of the Charter is accepted, a more complete information system will be needed for

migrants, also on living and working conditions that may be encountered in the Russian Federation (vocational guidance and training, social security, membership in trade unions, housing, social services, education and health care, etc.). In addition, the adoption of measures to stop the dissemination of misleading information on emigration and to combat racism and xenophobia, will be imperative.

As in 2015, the report concludes that the acceptance of Article 19§1 of the Charter seems possible.

Opinion of the Committee

The Committee takes note of the measures taken in order to provide assistance to migrant workers and to disseminate information on migration. It appreciates that the authorities of the Russian Federation are aware of the need to improve the current arrangements.

In addition, the Committee recalls that with a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, States Parties must also take measures to raise awareness amongst law enforcement officials, such as awareness training of officials who are in first contact with migrants.

In the light of the information provided, the Committee reiterates its opinion that there are no major obstacles to the acceptance by the Russian Federation of Article 19§1 of the Charter and therefore invites the authorities to consider accepting this provision in the near future.

Article 19§2 - Right of migrant workers and their families to protection and assistance - Departure, journey and reception

Situation in the Russian Federation

Along with citizens of the Russian Federation, foreigners, stateless persons permanently residing in the territory of the Russian Federation, unless otherwise provided by international treaties, and refugees, enjoy the right to medical care.

In accordance with the Federal Law on Refugees, foreign national or stateless person may be granted refugee status and thus benefit from assistance at several levels. However, the standards of Russian legislation in force in this field do not provide assistance for migrants in short-term accommodation who lack funds. Medical assistance is provided in limited cases and compulsory medical insurance does not apply to workers with a temporary residence permit.

Russian legal standards for the provision of social services to foreign citizens mainly concern persons who have already had a residence permit in Russia for more than a year and are therefore not directly concerned with the process of facilitating the arrival and settlement of foreigners (including migrant workers) in the Russian Federation. Except for refugees and participants in the State Programme of Assistance for the Voluntary Resettlement of Compatriots in the Russian Federation Living Abroad. However, the cash payments due to these categories of persons do not concern migrant workers, they are very low, and it is also unlikely that they will be found to be in conformity with the requirements of Article 19§2 of the Charter.

The report concludes that, assuming that no change is expected in the State's policy to take measures to improve the situation of people coming to the Russian Federation to work, acceptance of this provision does not seem appropriate. In the event of its acceptance, new legislation will be needed to extend the rules on compulsory health insurance to all foreign workers (such projects are currently under discussion) as well as the development of new standards (including the allocation of financial resources and the setting up of institutional infrastructure) to help with short-term housing for migrants who lack sufficient funds.

Opinion of the Committee

The Committee notes that no progress has been made in the Russian Federation in the last five years to protect migrants during their journey.

The Committee therefore reiterates its call on the Russian authorities to continue their work with a view to providing appropriate legal framework and adopting special measures for the benefit of migrant workers, beyond those which are provided for nationals, to facilitate their departure, journey and reception, in accordance with the requirements of Article 19§2 of the Charter.

Article 19§3 - Right of migrant workers and their families to protection and assistance - Cooperation between social services of emigration and immigration states

Situation in the Russian Federation

The Russian Federation has concluded international agreements on the temporary employment of foreign citizens on its territory with the following countries: France, North Korea, South Korea, Uzbekistan, Tajikistan, China, Mongolia, Kyrgyzstan and Vietnam. Meetings of the joint working groups of the States concerned by the implementation of these agreements are held regularly to discuss the issues raised by the workers concerned and to exchange information on changes in migration legislation, labour legislation and other issues. The Ministry of the Interior of the Russian Federation is conducting appropriate consultations with representatives of interested federal executive bodies to answer questions from foreign partners on the implementation of the agreements.

The report concludes that the legislation and practice of the Russian Federation generally comply with the requirements of Article 19§3 of the Charter. Nevertheless, the Russian federal executive authorities should disclose information on their international cooperation with the relevant departments of other countries.

Opinion of the Committee

The Committee notes that the Russian Federation has concluded agreements with a number of countries to facilitate contacts and exchanges of information between the social services of the emigration and immigration states concerned. It recalls that formal arrangements are not always necessary, especially if there is little migratory movement in a given country. In such cases, the provision of practical cooperation on a needs basis may be sufficient.

In the light of the information provided, the Committee reiterates its opinion that there are no major obstacles to the acceptance by the Russian Federation of Article 19§3 of the Charter and encourages the competent authorities to disclose information on their international cooperation with the relevant services of other countries.

Article 19§4 - Right of migrant workers and their families to protection and assistance - Equality regarding employment, right to organise and accommodation

Situation in the Russian Federation

The report of the Russian authorities states that the Labour Code guarantees equal treatment of workers in the Russian Federation.

In particular, as regards the remuneration and other employment and working conditions (a), the Labour Code guarantees that, in the territory of the Russian Federation, the rules established by labour legislation and other laws containing labour law standards extend to labour relations involving foreign citizens and stateless persons, except in cases where, in accordance with federal

laws or international treaties, labour relations with foreign workers or stateless persons are governed by foreign law.

Regarding membership of trade unions and enjoyment of the benefits of collective bargaining (b), the Labour Code guarantees that no one may be subjected to restrictions on labour rights and freedoms or obtain benefits regardless of race, colour, nationality, language, origin, membership or non-affiliation with public associations, including trade unions. This principle is confirmed by the Federal Law No 10-FZ of 12 January 1996 "On Trade Unions, their Rights and Guarantees of their Activities", which states that "foreign nationals and stateless persons residing in the territory of the Russian Federation may be members of trade unions of the Russian Federation, except in cases provided for by federal laws or international treaties of the Russian Federation".

Regarding the accommodation (c), Russian legislation complies with Article 19§4 of the Charter in terms of regulating the acquisition of housing. By contrast, it does not meet the requirements of access to public housing, since the possibilities of obtaining housing from the State and municipal housing fund are only available to Russian citizens.

In the event of acceptance of this provision, the Russian Federation will have to fulfill its obligation to guarantee equal access to social housing for non-Russian nationals.

Opinion of the Committee

Article 19§4 of the Charter guarantees non-discrimination of migrant workers with respect to: (a) remuneration and other employment and working conditions, (b) trade union membership and the enjoyment of benefits of collective bargaining, and (c) accommodation. States Parties must prove the absence of discrimination, direct or indirect, in terms of law and practice.

On the basis of the information at its disposal, the Committee considers that the situation in the Russian Federation with regard to Article 19§4 (a) and (b) seems to be in conformity with the Charter, while legal obstacles remain with regard to Article 19§4 (c) - access to social housing for non-Russian nationals.

The Committee is therefore of the opinion, that there are no major obstacles to the acceptance by the Russian Federation of Article 19§4 (a) and (b) of the Charter, without delay. It encourages the Russian authorities to take measures in favour of ensuring the right to social housing for foreign workers.

Article 19§6 - Right of migrant workers and their families to protection and assistance - Family reunion

Situation in the Russian Federation

The report of the Russian Federation indicates that Russian legislation does not contain provisions to facilitate the family reunification of migrant workers.

Opinion of the Committee

The Committee invites the Russian authorities to continue their work towards providing the appropriate legal framework in respect of family reunion, thus bringing the situation in line with the requirements of Article 19§6 of the Charter.

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

Situation in the Russian Federation

The Constitution of the Russian Federation guarantees the right to legal protection equally to all persons on the territory of the Russian Federation. However, some provisions of the Law “On Prosecutor’s Office” apply only to Russian nationals. Acceptance of Article 19§7 of the Charter would therefore require an amendment to this law in order to include foreign workers in the scope of application.

Furthermore, the rules governing the Federal Labour Inspectorate, as provided for in Chapter 57 of the Labour Code of the Russian Federation, apply only to Russian nationals, which is contrary to Article 19§7 of the Charter.

Finally, legal assistance is free of charge and subject to a fee in the Russian Federation. There are no restrictions on the provision of fee-based legal assistance for foreign nationals who can benefit from it to the same extent as Russian nationals. However, in accordance with the Federal Law “On Free Legal Assistance in the Russian Federation”, foreign nationals do not have access to such a facility. Acceptance of Article 19§7 of the Charter would therefore require resolving the issue of providing free legal assistance to migrant workers.

Opinion of the Committee

The Committee recalls that under this provision States Parties must ensure that migrants have access to courts, to lawyers and legal aid on the same conditions as their own nationals. This obligation applies to all legal proceedings concerning the rights guaranteed by Article 19 (i.e. pay, working conditions, housing, trade union rights, taxes).

More specifically, any migrant worker residing or working lawfully within the territory of a State Party who is involved in legal or administrative proceedings and does not have counsel of his or her own choosing should be advised that he/she may appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if he or she does not have sufficient means to pay the latter, as is the case for nationals or should be by virtue of the European Social Charter. Under the same conditions (involvement of a migrant worker in legal or administrative proceedings), whenever the interests of justice so require, a migrant worker must have the free assistance of an interpreter if he or she cannot properly understand or speak the national language used in the proceedings and have any necessary documents translated. Such legal assistance should be extended to obligatory pre-trial proceedings.

The Committee takes note of the information provided by the authorities of the Russian Federation. It invites the Russian authorities to continue their work towards providing the appropriate legal framework and its implementation in practice to ensure equality regarding legal proceedings, which will allow the acceptance of Article 19§7 of the Charter.

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

Situation in the Russian Federation

The report of the Russian authorities indicates that there are three types of controlled forced resettlement or controlled expulsion from the Russian Federation of foreign nationals: administrative expulsion (administrative penalty for an administrative offence), deportation, expulsion of offenders at the State border.

The report states that a comparison of the provisions of Russian legislation governing these procedures with the positions of the European Committee of Social Rights as regards Article 19§8 of the Charter leads to the following conclusions:

In the Russian Federation administrative expulsion is applied not only by a court or judicial authority, but also, in some cases, by officials when a foreign national or stateless person commits

an administrative offence upon entering the Russian Federation. This is not in accordance with the requirements of Article 19§8 of the Charter. In addition, a decision on administrative expulsion cannot be appealed to a court in all cases.

In cases where administrative expulsion is used as an administrative sanction, the following elements are taken into account when examining the case: the nature of the administrative offence, the identity of the perpetrator, his or her property status, the circumstances mitigating administrative liability and the circumstances aggravating administrative liability.

Article 25§10 of the Federal Law No 114-FZ of 15 August 1996 “On Procedure for Exiting and Entering the Russian Federation” allows for the decision to declare the stay (residence) of a foreign national or stateless person in the Russian Federation undesirable if the stay (residence) of that person, in particular, constitutes a real threat to public health which contradicts the position of the European Committee of Social Rights.

The Federal Law on Refugees provides for the possibility of deporting the persons concerned with their family members, including those who have exercised their right to family reunification. According to the conclusions and decisions of the European Committee of Social Rights, it is unacceptable to expel members of a migrant worker's family in these cases.

In the light of the above, the report of the Russian Federation concludes that Russian legislation does not fully comply with Article 19§8 of the Charter and, in the event of acceptance of this Article, significant amendments to a number of laws and regulations will be necessary.

Opinion of the Committee

The Committee takes note of the information provided by the authorities of the Russian Federation. It invites the Russian authorities to continue their work towards providing the appropriate legal framework and its implementation in practice to introduce and respect guarantees concerning deportation, which will allow the acceptance of Article 19§8 of the Charter.

Article 19§10 - Right of migrant workers and their families to protection and assistance - Equal treatment for the self-employed

Situation in the Russian Federation

The report of the authorities of the Russian Federation states that the Russian legislation does not contain rules providing for different treatment for employees, self-employed migrant workers and members of their families. It concludes that there is no reason to prevent the acceptance of Article 19§10 of the Charter.

Opinion of the Committee

The Committee recalls that the authorities of the Russian Federation already declared in 2015 that there was no reason why Article 19§10 of the Charter should not be accepted. It therefore encourages them to consider accepting this provision without delay.

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

Situation in the Russian Federation

The report of the authorities of the Russian Federation confirms that the universal right to education is provided for by the Constitution of the Russian Federation (Article 43 of the Constitution).

Foreign nationals have the same rights as citizens of the Russian Federation with regard to pre-school education, general primary education, basic general education and general secondary education, as well as vocational training, within the limits of the basic secondary education programme, generally accessible and free of charge (Federal Law No. 273-FZ of 29 December 2012 “On Education in the Russian Federation”).

At the same time, Russian legislation gradually increases the requirements relating to the level of knowledge of the Russian language necessary to acquire and exercise a job in the Russian Federation. It thus simultaneously addresses the problem of the level of knowledge of the Russian language by foreign workers necessary for their integration both in the workplace and in society.

When obtaining a work permit, a foreign national arriving in the Russian Federation with a visa is required to present a document confirming knowledge of the Russian language, the history of Russia and the fundamental principles of the legislation of the Russian Federation.

There is no language training programme in Russian for migrant workers and their families, including children who are no longer of school age. In principle, migrants can only use the various courses offered to learn Russian as a foreign language, but they are fee-based and are not intended for low-income and busy schedule migrant workers or members of their families.

The report confirms that Russian legislation guarantees the right of children of migrant workers to receive a general basic and secondary education on an equal basis with other children living in Russia. In practice, difficulties arise in the implementation of the right to free pre-school education in regions that lack places in pre-school institutions.

Furthermore, there is no language training programme in Russian for migrant workers and their families, including children who are no longer of school age. Nor is there a special policy to encourage the State to teach the national language in the workplace, in the private sector or in public institutions, such as universities. In addition, there is no system of free language courses or other programs that help to integrate into society.

The report concludes that acceptance of Article 19 of the Charter would require the development of policy, regulations and appropriate measures to meet the requirements of this provision.

Opinion of the Committee

The Committee recalls that under this provision, States Parties should promote and facilitate the teaching of the national language to children of school age, as well as to the migrants themselves and to members of their families who are no longer of school age. The teaching of the national language of the receiving state is the main means by which migrants and their families can integrate into the world of work and society at large. A requirement to pay substantial fees is not in conformity with the Charter. States Parties are required to provide national language classes free of charge, otherwise for many migrants such classes would not be accessible.

The Committee takes note of the information provided by the authorities of the Russian Federation. It invites the Russian authorities to continue their work towards providing the appropriate legal framework and its implementation in practice to ensure that Russian language teaching is provided to all migrant workers and their families, which will allow the acceptance of Article 19§8 of the Charter. the acceptance of Article 19§11 of the Charter.

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

Situation in the Russian Federation

The report of the Russian Federation indicates that Russian legislation does not include special provisions on the organisation of the teaching of languages spoken by the children of migrants.

If Article 19§12 of the Charter is accepted, the Russian Federation will be under an obligation to develop measures to assist schools and other structures, in particular public associations, to introduce and organise the teaching of foreign languages spoken by the children of migrant workers (including funding, organisational and methodological support).

Furthermore, the report reiterates the view of the Russian authorities, expressed during the previous implementation of the procedure on the non-accepted provisions, that, in addition to the financial cost of these measures, their appropriateness is highly controversial and ambiguous. In essence, supporting the teaching of the languages of migrant workers' countries of origin will hinder the integration of migrants into Russian society, stimulating their communication in their mother tongue and maintaining the existence of ethnic enclaves.

The report concludes that the Russian Federation, as a host country, is not interested in supporting this education. If the countries of origin of migrant workers are willing to finance language education, this should not be blocked. However, assuming the obligation to maintain and finance such an education following the acceptance of Article 19§12 of the Charter by the Russian Federation does not seem suitable.

Opinion of the Committee

The Committee takes note of the information provided by the Russian authorities. It observes that their position has not changed since 2015.

The Committee invites the Russian authorities to continue their work towards providing the appropriate measures in order to comply with this provision.

Article 23 - Right of the elderly to social protection

Situation in the Russian Federation

The report confirms that Russian legislation does not fully comply with the requirements of Article 23.1 (a) of the Charter. In order for Russian legislation to fully comply with this provision, it is necessary to define the term "elderly person", increase the amount of payments and provide for new types of payments so that pensions and other public benefits are sufficient to enable elderly people to lead a decent life and play an active role in public, social and cultural life.

The report then indicates that the legislation of the Russian Federation is in principle in conformity with the provisions of Article 23.1 (b) of the Charter and that this provision could be accepted.

The report further emphasises that the legal and practical situation in the Russian Federation does not allow the acceptance of Article 23. 2 (a) of the Charter concerning the provision of housing suited to elderly persons.

According to the report, Russian law in principle conforms to the requirements specified in Article 23. 2 (b) of the Charter. For full conformity, improved palliative care and social service systems are needed.

As regards Article 23.3, the report points out that the Russian Federation is working to increase the availability of citizens' hospital stays by lowering prices or covering them with benefits. Issues relating to staff qualification requirements, staff training and the level of salaries of workers in these institutions are being examined.

The report of the Russian authorities concludes that the Russian legislation is partially consistent with Article 23 of the Charter.

Opinion of the Committee

The Committee takes note of the information provided by the Russian authorities. It observes that the situation remains substantially the same as in 2015. The Committee therefore encourages the authorities of the Russian Federation to continue their work towards providing the appropriate legal framework and its implementation in practice to ensure the respect of right of the elderly to social protection. It recalls that some States have made reservations when accepting Article 23 of the Charter.

Article 25 - Right of workers to protection of their claims in the event of insolvency of the employer

Situation in the Russian Federation

The report indicates that the Russian Federation ratified ILO Convention No. 173 on the Protection of Workers' Claims (Employer's Insolvency) in 2012 and that, in the case of the insolvency of the employer, it assumes the obligation to protect workers' claims by privilege.

The payment of salary arrears by a bankrupt employer is made in accordance with Federal Law No. 127-FZ of 26 October 2002 "On Insolvency (Bankruptcy)".

Thus, at present, workers' claims have a privileged status in bankruptcy proceedings.

The adoption of Federal Law No. 186-FZ of 29 June 2015 "Amending certain legislative acts of the Russian Federation" (with regard to increasing the employer's liability for violation of pay deadlines), in force since 29 September 2015, leads to the conclusion that the situation in the Russian Federation complies with the requirements of Article 25 of the Charter.

Opinion of the Committee

The Committee welcomes the positive developments with regard to the guarantee of the right of workers to protection of their claims in the event of insolvency of the employer and considers that, following the ratification of ILO Convention No. 173 and the adoption of Federal Law No. 186-FZ, the conditions are met for the acceptance of Article 25 of the Charter. It encourages the Russian authorities to pursue their efforts towards improving the situation as indicated in the report and to consider accepting this provision.

Article 26§1 - Right to dignity in the workplace - Sexual harassment

Situation in the Russian Federation

The report of the Russian authorities indicates that the Labour Code of the Russian Federation does not provide for special legal provisions to prevent sexual harassment at work and in the workplace. However, the legislator has proclaimed the right of workers to the protection of their dignity during the period of employment as one of the main principles of the legal regulation of labour relations and other directly associated relations (Article 2 of the Labour Code of the Russian Federation).

Judicial protection is currently only possible in criminal proceedings and applies mainly to the most serious forms of sexual harassment. No provision has been made to alleviate the type of liability, in particular administrative liability. Nor are there any mechanisms for seeking protection of rights in

civil proceedings involving a claim for compensation for non-material damage. The situation in this area is, in many respects, similar to that of discrimination finding and prosecution.

The report stresses that, given the importance and heavy consequences of sexual harassment, which constitutes a serious form of discrimination based on sex and a violation of human rights, effective measures are needed to prevent and prohibit sexual harassment at work.

It therefore appears that the acceptance of Article 26§1 of the Charter by the Russian Federation is a necessary and required step; its acceptance can help to guarantee the right of workers to the protection of their dignity. At the same time, it will require a number of legislative amendments and organisational measures.

Opinion of the Committee

The Committee takes note of the information provided. It encourages the Russian authorities to pursue their efforts towards improving the situation as indicated in the report and to consider accepting Article 26§1 of the Charter as soon as possible.

Article 26§2 - Right to dignity in the workplace - Moral harassment

Situation in the Russian Federation

According to the report of the Russian authorities, the legislation of the Russian Federation does not contain special rules aimed at protecting workers from mobbing and harassment. However, thanks to the conclusion of the European Framework Agreements on Harassment and Violence at Work (2007) and Stress at Work (2004), the protection of workers against these psychosocial risks has been developed.

The current practice in the Russian Federation follows the path of applying methods based on the Civil Code to protect the honour and dignity of workers in cases of dissemination of defamatory information by colleagues (Art. 152 of the Civil Code of the Russian Federation). There is also the possibility of protection by administrative and criminal law (Art. 5.61 of the Code of Administrative Offences of the Russian Federation and Art. 128.1 of the Criminal Code of the Russian Federation). However, these measures are clearly not sufficient to fully protect workers from harassment.

The report points out that the Russian Federation ratified ILO Convention No. 155 concerning Occupational Safety and Health in 1998, which, under the term "health", includes physical and mental elements affecting health that are directly related to safety and hygiene at work.

The report concludes that Russian legislation has a fundamental basis for the subsequent adoption of special standards against harassment or psychological pressure (mobbing).

The Labour Code of the Russian Federation contains general legal standards aimed at protecting the dignity of workers during their professional activity, by giving them the possibility of having the moral damage caused to workers by unlawful acts or by the inaction of their employer compensated. Since the case law on Article 26§1 and 2 of the Charter specifies that, at national level, States are not required to adopt special laws governing protection against harassment, provocation and abuse, the authorities of the Russian Federation consider that Article 26 of the Charter can be accepted.

However, in order to create an effective mechanism for the implementation of Article 26§2 of the Charter, the Russian authorities consider it necessary to amend Article 2, Part 2.22 of the Labour Code of the Russian Federation in order to impose an obligation on the employer to take the necessary measures, including informing workers, to prevent harassment at work and in the workplace and to help workers exercise their right to protect their dignity during their employment.

The report stresses that list of the employer's obligations in the field of occupational safety and protection (Article 212 of the Labour Code of the Russian Federation) should be supplemented by the obligation to ensure a psychologically healthy working environment. In order to ensure the availability of the necessary information, Article 212 § 14 p.2 should read as follows: "inform workers of the conditions and protection of work in the workplace, the risks of accidents and their compensation, the guarantees offered to them and the means of personal protection as well as the methods of protection against harassment manifested by the violation of human dignity and by a threatening, hostile, humiliating or offensive situation".

These amendments could form the normative basis of judicial practice in protecting workers against harassment at work and could be important for the prevention and repression of harassment and mobbing at work. In addition, the modernisation of labour legislation in terms of protection against harassment would help to ensure the implementation of the standards of Part 1, Article 21 of the Constitution of the Russian Federation on the protection of human dignity by the State.

Opinion of the Committee

The Committee takes note of the information provided. It appreciates the proposals set out in the report for improving the existing situation.

It recalls that workers must be afforded effective protection against harassment. This protection must include the right to appeal to an independent body in the event of harassment, the right to obtain adequate compensation and the right not to be retaliated against for upholding these rights.

The Committee observes that the situation in the Russian Federation remains substantially the same as in 2015. It therefore encourages the authorities of the Russian Federation to continue their work towards providing the appropriate legal framework and its implementation in practice to guarantee workers that their right to protection of human dignity against harassment is respected.

In the meantime, it considers that the current situation in the Russian Federation should be improved to meet the requirements of Article 26§2 of the Charter.

Article 30 - Right to be protected against poverty and social exclusion

Situation in the Russian Federation

The report of the Russian authorities confirms that the Russian Federation is taking comprehensive legal measures to combat poverty affecting socially vulnerable population groups (the elderly, people with disabilities, large families, etc.). It is mainly addressed by social security. In addition, various legal means of combating poverty are enshrined in social legislation and a system of social benefits has been set up to provide State support to the poorest members of society.

However, in order to meet the requirements of Article 30 of the Charter, further efforts will be required in the following areas:

- the creation of control mechanisms that include the full cooperation of all relevant actors, including civil society and people directly affected by poverty and social exclusion,
- the adoption of measures to inform and attract resources for accessing fundamental social rights, in particular employment, housing, vocational training, education, culture and social and medical care.

Moreover, the level of guarantees actually provided to certain population groups is determined by the economic capacities of the State. Raising this level to the standards set by the Charter is linked to the country's further economic development.

The report concludes that acceptance of this provision seems premature.

Opinion of the Committee

The Committee takes note of the information provided. It observes that the situation in the Russian Federation remains substantially the same as in 2015. It therefore encourages the authorities of the Russian Federation to continue their work towards providing the appropriate legal framework and to implement it in practice to promote the effective access of persons concerned to the right to be protected against poverty and social exclusion.

It considers that the current situation in the Russian Federation should be improved to meet the requirements of Article 30 of the Charter.

Article 31§1 - Right to housing - Adequate housing

Situation in the Russian Federation

The report of the authorities of the Russian Federation indicates that the right to housing is one of the most important social rights of Russian citizens, enshrined in article 40 of the Constitution of the Russian Federation and detailed in the relevant legislation on housing. The Housing Code of the Russian Federation stipulates that legislation on housing is based on the need to provide citizens with the conditions necessary for the effective exercise of the right to housing by State and local authorities.

The legislation on the right to housing is accompanied by extensive enforcement practice by the courts of general jurisdiction, the Constitutional Court and the executive authorities.

The report concludes that the Russian legislation fully complies with Article 31§1 of the Charter and therefore this provision could be accepted by the authorities of the Russian Federation.

Opinion of the Committee

The Committee notes that the Russian authorities confirmed in 2015 that the situation in the Russian Federation fully complies with the requirements of Article 31§1 of the Charter and that this provision could be accepted. It observes that the situation has not worsened since the current report confirms that the Russian Federation is in a position to accept this provision.

The Committee therefore encourages the Russian authorities to accept Article 31§1 of the Charter without delay.

It recalls that positive measures in the field of housing must be adopted in respect to vulnerable persons, paying particular attention to the situation of Roma and Travellers. Special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases. Housing policies which have resulted in the spatial and social segregation of Roma (poorly built housing, on the outskirts of towns, segregated from the rest of the population), have also led to breaches of the Charter.

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

Situation in the Russian Federation

The report shows that Russian legislation does not fully comply with the requirements of Article 31§2 of the Charter.

Measures should be taken to reduce the number of homeless people and to implement emergency measures, such as the provision of temporary accommodation. The housing stock should be

sufficient and living conditions should be sustainable and in compliance with all health standards. The temporary accommodation provision for people without housing should not only be livable, but should also be provided for a reasonable period of time. In addition, measures should be taken to help these people overcome their difficulties and prevent them from returning to homelessness. These solutions are not currently available at a sufficient level in the Russian Federation.

Opinion of the Committee

The Committee takes note of the information provided by the authorities of the Russian Federation. It considers that the current situation in law and practice in the Russian Federation should be improved to meet the requirements of Article 31§2 of the Charter. It therefore encourages the Russian authorities to pursue their efforts to reduce homelessness.

Article 31§3 - Right to housing - Affordable housing

Situation in the Russian Federation

The report of the Russian authorities shows that the Russian legislation does not fully comply with the requirements of Article 31§3 of the Charter.

It points out the need to take measures to ensure optimal waiting times for the allocation of housing and to ensure legal and other remedies when waiting times are excessive. It is also necessary to introduce housing allowances for people living in poverty and precariousness.

Opinion of the Committee

The Committee takes note of the information provided by the authorities of the Russian Federation. It considers that the current situation in law and practice in the Russian Federation should be improved to meet the requirements of Article 31§3 of the Charter. It encourages the Russian authorities to continue their efforts towards providing the appropriate legal framework and its implementation in practice to ensure sufficient affordable housing for persons with limited resources.

APPENDIX I

The situation of the Russian Federation with respect to the European Social Charter

— Russian Federation and the European Social Charter —

Signatures, ratifications and accepted provisions

The Russian Federation signed the Revised European Social Charter on 14 September 2000 and ratified it on 16 October 2009, accepting 67 of the Revised Charter's 98 paragraphs.

It has not yet accepted the Additional Protocol providing for a system of Collective Complaints.

Table of accepted provisions

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

Reports on non-accepted provisions

The European Committee of Social Rights ("the Committee") examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification. It adopted a [report concerning the Russian Federation](#) in 2015. The Committee is of the opinion that there are no legal obstacles for acceptance by the Russian Federation of the following provisions: Article 2§2, Article 12§3, Article 13§2, Article 13§3, Article 15§3, Article 19§1, Article 19§3, Article 19§4, Article 19§10, Article 23 and Article 31.

Further information on the reports on non-accepted provisions is available on the [relevant webpage](#).

Monitoring the implementation of the European Social Charter ²

I. Reporting system ³

Reports submitted by the Russian Federation

Between 2011 and 2019, the Russian Federation has submitted 7 reports on the application of the Revised Charter.

The 7th report, submitted on 19/01/2018 covers the accepted provisions of the Revised Social Charter relating to thematic group 3 "Labour rights" (Articles 2, 4, 5, 6, 21, 22, 26, 28, 29).

Conclusions with respect to these provisions have been published in March 2019.

The 8th report, which was to be submitted by 31/10/2018, should concern the accepted provisions relating to thematic group 4 "Children, families, migrants", namely:

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

Conclusions with respect to these provisions will be published in January 2020.

² The European Committee of Social Rights ("the Committee") monitors compliance with the Charter under two procedures, the reporting system and the collective complaints procedure, according to Rule 2 of the Committee's rules: « 1. The Committee rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter. 2. It adopts conclusions through the framework of the reporting procedure and decisions under the collective complaints procedure ».

Further information on the [procedures](#) may be found on the [HUDOC database](#) and in the [Digest of the case law of the Committee](#).

³ Following a [decision taken by the Committee of Ministers in 2006](#), the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

Following a [decision taken by the Committee of Ministers in April 2014](#), States having accepted the collective complaints procedure are required, in alternation with the abovementioned report, to provide a simplified report on the measures taken to implement the decisions of the Committee adopted in collective complaints concerning their country. The alternation of reports is rotated periodically to ensure coverage of the four thematic groups.

Detailed information on the Reporting System is available on the [relevant webpage](#). The reports submitted by States Parties may be consulted in the [relevant section](#).

Situations of non-conformity ⁴

Thematic Group 1 « Employment, training and equal opportunities » - Conclusions 2016

► *Article 152 – Right to work - Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

- Indirect discrimination is not expressly prohibited by law;
- The legislation does not provide for a shift in the burden of proof in discrimination cases;
- Discrimination on grounds of sexual orientation in employment is not expressly prohibited by law;
- Foreign nationals cannot be employed in the municipal and state service, which constitutes a discrimination on grounds of nationality.

► *Article 154 – Right to work – Vocational guidance, training and rehabilitation*

It has not been established that the right to vocational guidance within the education system and in the labour market is guaranteed.

► *Article 9 - Right to vocational guidance*

It has not been established that the right to vocational guidance within the education system and in the labour market is guaranteed.

► *Article 1552 - Right of persons with disabilities to independence, social integration and participation in the life of the community - Employment of persons with disabilities*

It has not been established that the legal obligation to provide reasonable accommodation is respected.

► *Article 1854 - Right to engage in a gainful occupation in the territory of other States Parties- Right of nationals to leave the country*

There are still restrictions on the right of Russian citizens to leave the country.

► *Article 20 - Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex*

- Women are not permitted to work in all professions which constitutes discrimination based on sex;
- The legislation does not provide for a shift in the burden of proof in cases of discrimination based on sex.

Thematic Group 2 « Health, social security and social protection » - Conclusions 2017

► *Article 353 - Right to safe and healthy working conditions – Enforcement of safety and health regulations*

- Measures to reduce the excessive rate of fatal accidents are inadequate;
- The labour inspection is so understaffed it cannot be considered as efficient.

► *Article 354 - Right to safe and healthy working conditions - Occupational health services*

It has not been established that there is a strategy to progressively provide access to occupational health services for all workers in all sectors of the economy.

► *Article 1151 - Right to protection of health – Removal of the causes of ill-health*

The measures taken to reduce infant and maternal mortality have been insufficient.

► *Article 1251 – Right to social security – Existence of a social security system*

- It has not been established that the existing unemployment scheme covers an adequate percentage of the active population;
- The minimum level of sickness benefits is inadequate;
- The minimum level of industrial accidents and occupational diseases benefits is inadequate;
- The minimum level of unemployment benefits is inadequate.

Thematic Group 3 « Labour rights » - Conclusions 2018

⁴ Further information on the situations of non-conformity is available on the [HUDOC database](#).

► *Article 2§3 – Right to just conditions of work – Annual holiday with pay*

In certain circumstances, the law allows all annual leave to be carried over to the following year.

► *Article 2§5 – Right to just conditions of work - Weekly rest period*

Weekly rest days may be postponed over a period exceeding twelve successive working days.

► *Article 4§3 – Right to a fair remuneration - Non-discrimination between women and men with respect to remuneration*

The legislation does not provide for the shift in the burden of proof in discrimination cases.

► *Article 4§4 – Right to a fair remuneration-Reasonable notice of termination of employment*

- Severance pay of two weeks' salary applicable to termination of employment on the grounds of medical incapacity, call-up for military service, judicial or administrative reinstatement of the previous post-holder, is not reasonable for employees with more than six months of service;
- Notice period of three days applicable to dismissal during probationary period is not reasonable;
- No notice period is provided where the dismissal is due to the death of the employer who is a natural person;
- Notice periods are applicable to employees of self-employed persons or religious organisations or to home workers are left to the discretion of the parties to the employment contact.

► *Article 4§5 – Right to a fair remuneration-Limits to wage deductions*

Following all authorised deductions, the wages of employees with the lowest pay do not enable them to provide for themselves or their dependants.

► *Article 6§4 - Right to bargain collectively - Collective action*

- The restrictions on the right to strike for civil aviation personnel engaged in air traffic management and for public railway transport workers do not comply with the conditions established by Article G of the Charter;
- The percentage of workers required to call a strike is too high.

► *Article 28 - Right of workers' representatives to protection in the undertaking and facilities to be accorded to them*

- The protection afforded to some workers' representatives does not extend beyond the end of their mandate;
- Adequate protection and appropriate facilities are not afforded to workers' representatives other than trade union representatives.

Thematic Group 4 « Children, families, migrants » – Conclusions 2015

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

Family benefits do not cover a significant number of families.

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

Not all forms of corporal punishment are prohibited in the home and in institutions.

The Committee has been unable to assess compliance with the following provisions and has invited the Government of the Russian Federation to provide more information in the next report:

Thematic Group 1 « Employment, training and equal opportunities »

- ▶ Article 10§1 - Conclusions 2016
- ▶ Article 15§1 - Conclusions 2016

Thematic Group 2 « Health, social security and social protection »

- ▶ Article 11§2 - Conclusions 2017
- ▶ Article 11§3 - Conclusions 2017

Thematic Group 3 « Labour rights »

- ▶ Article 6§2 - Conclusions 2018
- ▶ Article 6§3 - Conclusions 2018

Thematic Group 4 « Children, families, migrants »

- ▶ Article 7§1 - Conclusions 2015
- ▶ Article 7§3 - Conclusions 2015
- ▶ Article 7§5 - Conclusions 2015
- ▶ Article 7§6 - Conclusions 2015
- ▶ Article 7§10 - Conclusions 2015
- ▶ Article 17§2 - Conclusions 2015
- ▶ Article 27§3 - Conclusions 2015

II. Examples of progress achieved in the implementation of rights under the Charter (non-exhaustive list)

Thematic Group 1 « Employment, training and equal opportunities »

- ▶ Following the amendment in 2012 of Federal Act No.1032-1 "On employment in the Russian Federation" of 19 April 1991, the subjects of the Federation are entitled to conduct active policies to promote employment.
- ▶ Act No. 116-FZ "On Amendments to Certain Legislative Acts" of 5 May 2014, set the rules for accreditation and operation of private employment agencies in the Russian Federation.
- ▶ The Order of the Ministry of Labour of Russia № 262 of April 17, 2014 approved the Federal state standards of public services, including vocational training and education for the unemployed.
- ▶ The Law on the Protection of Disabled Persons, as amended by Federal Law no. 168-FZ of 2 July 2013, provides that employers must supply equipment for special jobs for persons with disabilities, regard being had to their disability.
- ▶ With effect from 2013, Law No. 183-FZ of 2 July 2013 entitles public authorities to set quotas for the employment of persons with disabilities within organisations which have more than 35 members of staff.
- ▶ With regard to the activities of the National Employment Service, standards for public services and public functions in the field of promotion of employment have been drawn up (Federal Law no. 361-FZ of 30 November 2011) in order to guarantee employment and encourage access to the inclusive employment market for persons with disabilities.
- ▶ In 2011 the Council on Gender was created at the Russian Ministry of Labour whose main tasks are to prepare proposals on improvement of legislation in order to ensure gender equality.

Thematic Group 2 « Health, social security and social protection »

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Thematic Group 3 « Labour rights »

- ▶ The federal laws Nos. 426-FZ of 28 December 2013 on special assessment of working conditions and 421-FZ on amendments to certain legislative acts of the Russian Federation entered into force on 1 January 2014. As a result, the procedure for certifying workplaces based on working conditions has been replaced by a procedure governing the special assessment of working conditions ("SOUT"). This procedure applies to all workers irrespective of their official occupation and position except for homeworkers, teleworkers and employees working for a private individual.
Under Article 3 (1) and (2) of Federal Law No. 426-FZ, a SOUT is a set of sequentially implemented measures to identify harmful and dangerous factors related to the working environment and labour process, and the degree to which they affect the employees, taking into account the extent to which their actual values deviate from the norms established by the government regarding working conditions and the use of individual and collective protection for workers. Conditions in the workplace are divided into various classes and subclasses (optimal, acceptable, harmful – including 4 subclasses – and hazardous working conditions) according to the degree of harmfulness and hazard, based on the results of the SOUT (Article 14). The procedure for establishing which class working conditions fall into is determined by the Methodology for assessing working conditions approved by the Ministry of Labour (Order No. 33 of 24 January 2014).
Federal Law No. 421-FZ amends certain articles of the Labour Code in order to ensure the implementation of a differentiated approach when providing workers with guarantees for working in harmful and hazardous working conditions, depending on how the conditions are classified following the special assessment. Workers employed in harmful and hazardous working conditions are entitled to a wage premium equivalent to at least 4% of the base wage rates established for various jobs with standard labour conditions (Article

147 of the Labour Code). Extra paid leave of at least 7 calendar days is granted to workers employed in working conditions classified as harmful (in at least the 2nd degree) or hazardous, based on the results of the SOUT (Article 117). The specific duration of this leave is determined in accordance with the industry agreement, collective agreement and labour contract, and there is no upper limit on the amount of additional paid leave which may be granted. A reduced working week (36 hours maximum) is granted to workers employed in working conditions which have been classified as harmful (in at least the 3rd degree) or hazardous (Article 92).

► In 2013, under Federal Law No. 95-FZ of 7 May 2013 amending Article 22 of the Labour Code, a new system for the consultation of employees on productivity and efficiency was set up. The law establishes the right of employers to set up "production councils" – advisory bodies formed on a voluntary basis by their employees to draft proposals to improve production activities and processes, increase workforce productivity and improve employees' skills. The powers, membership and functioning of such councils and their interaction with employers are established by a local by-law.

Thematic Group 4 « Children, families, migrants »

► The Decree of the Government on the activities of establishments for orphans and children deprived of parental care was adopted on 24 May 2014. Paragraph 35 of the Decree provides that the number of children in one unit should not exceed 8 persons.

APPENDIX II

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

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

The Committee of Ministers of the Council of Europe,

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

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

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

Emphasizing that human rights must be enjoyed without discrimination;

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

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

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

1. Solemnly reaffirms the paramount role of the Charter in guaranteeing and promoting social rights on our continent;
2. Welcomes the great number of ratifications since the Second Summit of Heads of States and Governments where it was decided to promote and make full use of the Charter, and calls on all those member states that have not yet ratified the Revised European Social Charter to consider doing so;
3. Recognizes the contribution of the collective complaints mechanism in furthering the implementation of social rights, and calls on those members states not having done so to consider accepting the system of collective complaints;
4. Expresses its resolve to secure the effectiveness of the Social Charter through an appropriate and efficient reporting system and, where applicable, the collective complaints procedure;
5. Welcomes the numerous examples of measures taken by States Parties to implement and respect the Charter, and calls on governments to take account, in an appropriate manner, of all the various observations made in the conclusions of the European Committee of Social Rights and in the reports of the Governmental Committee;
6. Affirms its determination to support States Parties in bringing their domestic situation into conformity with the Charter and to ensure the expertise and independence of the European Committee of Social Rights;
7. Invites member states and the relevant bodies of the Council of Europe to increase their effort to raise awareness of the Charter at national level amongst legal practitioners, academics and social partners as well as to inform the public at large of their rights.

