



European  
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Charter

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

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

**GEORGIA**

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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 "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.

Georgia ratified the Charter on 22 August 2005, accepting 63 of its 98 paragraphs. The following provisions are not yet accepted: Articles 2§§3, 4 and 6, 3§§1-4, 4§§1 and 5, 8§§1 and 2, 9, 10§§1, 3 and 5, 12§§2 and 4, 13§§1-4, 15§§1 and 2, 16, 17§2, 21, 22, 23, 24, 25, 28, 30 and 31§§1-3.

The procedure provided for by Article 22 of the 1961 Charter was applied for the first time in the context of a meeting between members of the European Committee of Social Rights and the Secretariat and representatives of the Government of Georgia in Tbilisi on 9 July 2010. Following this meeting, the Georgian authorities were invited to send a written report by 30 December 2010 to supplement the information provided at the meeting. Unfortunately, no information was sent.

With a view to carrying out the procedure for the second time, the European Committee of Social Rights held a meeting with the Georgian authorities in Tbilisi on 3 September 2015. The Committee considered that there were no legal obstacles to the acceptance by Georgia of the following provisions of the Charter: Articles 2§3, 3§§1, 2 and 4, 4§5, 8§§1 and 2, 9, 10§1 and 3, 15§1, 17§2, 21 and 22.

In order to apply the procedure for the third time in 2020, the Georgian authorities were invited to provide written information on the non-accepted provisions of the Charter.

Having examined the written information received from the Government of Georgia on 31 May 2021, the European Committee of Social Rights considers that there are no major obstacles to the acceptance by Georgia of Articles 2§3, 2§4, 2§6, 3§1, 3§2, 10§1, 10§3, 10§5, 15§1, 21, 22 and 24.

The Committee is of the opinion that Georgia is in a position to meet in the near future the conditions enabling it to comply with the requirements of Article 3§3, 8§1 and 9 of the Charter. It encourages the authorities to pursue their policy in this direction.

The Committee considers that the current legal situation and practice in Georgia must be improved to meet the requirements of Articles 12§2, 13§2, 13§3, 16, 23, 28, 31§§1-3 of the 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 Articles 3§4, 4§1, 4§5, 12§4, 13§1, 13§4, 15§2, 17§2, 25 and 30.

The Committee invites Georgia to consider accepting additional provisions of the Charter as soon as possible so as to consolidate the paramount role of the Charter in guaranteeing and promoting social rights.

It recalls that at the meeting held in Tbilisi on 3 September 2015, the Georgian authorities declared themselves ready to accept the following provisions of the Charter: Articles 2§3, 3§§1, 2 and 4, 4§5, 9, 10§§1 and 3, 15§1, 17§2, 21 and 22. To date, none of these provisions have been accepted.

The Committee also encourages Georgia to consider ratifying the Additional Protocol providing for a system of collective complaints. In this respect, the Committee refers to the Declaration of the Committee of Ministers on the 50th anniversary of the European Social Charter (Appendix 2).

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

The next examination of the provisions not accepted by Georgia will take place in 2025.

## **II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS**

### ***Article 2 § 3 – The right to just conditions of work: Annual holiday with pay***

#### **Situation in Georgia**

Georgian legislation provides for the right of an employee to paid leave of at least 24 working days per year. The Georgian Civil Service Law, as amended in 2015, stipulates that a civil servant's paid leave consists of 24 working days per year.

#### **Opinion of the Committee**

The Committee recalls that Article 2§3 guarantees the right to a minimum of four weeks (or 20 working days) annual holiday with pay.

Annual leave may not be replaced by financial compensation and employees must not have the option of giving up their annual leave<sup>1</sup>.

At least two weeks uninterrupted annual holidays must be used during the year the holidays were due. Annual holidays exceeding two weeks may be postponed in particular circumstances defined by domestic law, the nature of which should justify the postponement<sup>2</sup>.

Workers who suffer from illness or injury during their annual leave are entitled to take the days lost at another time so that they receive the four week annual holiday provided for under this paragraph, possibly under the condition of producing a medical certificate<sup>3</sup>.

In view of these requirements, the Committee reiterates its opinion that there are no major obstacles for Georgia to accept Article 2§3 of the Charter. It also reiterates its request for more information on the requested two weeks of uninterrupted annual holiday per year and the arrangements for dealing with illness or injury during annual leave.

### ***Article 2 § 4 – The right to just conditions of work: Reduced working hours or additional holidays in dangerous or unhealthy occupations***

#### **Situation in Georgia**

According to the Organic Law of Georgia - Labour Code of Georgia: an employee working under harsh, harmful, or hazardous conditions shall be granted an extra paid leave of 10 calendar days annually (Article 31).

The daily working time limit for an employee working under harsh, harmful or hazardous conditions must not exceed 8 hours within 24 hours.

#### **Opinion of the Committee**

Article 2§4 is divided into two parts, the first requiring States Parties to take the necessary measures to eliminate risks in inherently dangerous or unhealthy occupations and the second requiring them to provide for compensation in the event of residual risks.

As regards the elimination or reduction of risks, the assessment of national situations under Article 2§4 takes into account the information provided and the conclusions reached in respect of Article 3§2<sup>4</sup>.

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<sup>1</sup> Conclusions I (1969), Ireland

<sup>2</sup> Conclusions 2007, Statement of interpretation on Article 2§3

<sup>3</sup> Conclusions XII-2 (1992), Statement of Interpretation on Article 2§3

<sup>4</sup> Conclusions 2005, Statement of Interpretation on Article 2§4

With regard to measures in response to residual risks, Article 2§4 requires States Parties to ensure some form of compensation for workers exposed to risks that cannot be or have not yet been eliminated or sufficiently reduced. States Parties enjoy a certain margin of discretion to determine the activities and risks concerned<sup>5 6</sup>.

The aim of the compensation must be to offer those concerned sufficient and regular time<sup>7</sup> to recover from the associated stress and fatigue, and thus maintain their vigilance<sup>8</sup>.

Article 2§4 mentions two forms of compensation: reduced working hours and additional paid holidays. In view of the emphasis in this provision on health and safety objectives, however, other approaches to reducing exposure to risks may<sup>9</sup> also ensure conformity with the Charter. They need to be assessed on a case by case basis<sup>10</sup>.

Measures intended to compensate workers for exposure to residual risks must be regulated at the central level and must not be left to the agreements between the social partners<sup>11</sup>.

Taking into account the information provided, including that concerning Article 3§2 of the Charter, and having regard to the fact that Georgia has accepted Article 11 of the Charter, the Committee considers that there are no major obstacles for Georgia to accept Article 2§4 of the Charter.

## **Article 2 § 6 – The right to just conditions of work: Information on the employment contract**

### **Situation in Georgia**

According to the amendments to the Labour Code of Georgia, if the employment relationship lasts more than one month, it is necessary to conclude an employment contract in writing (Article 12, paragraph 2).

Such a contract shall include the following basic data required by law:

Information on parties to the employment contract; Date of commencement of the work and duration of the employment contract; Working and rest time; Workplace and information on the employee's various workplaces, if his/her fixed or principal workplace is not determined; Senior position (if any, indicate rank, class, category, etc) and type or description of duties to be performed; Remuneration (indicate salary and premium, if any) and rule of its payment; Rule of paying for overtime work; Duration of paid leave, duration of unpaid leave and rules of granting such leaves; Rules for terminating employer-employee relationship; Provisions of collective agreement - if these provisions otherwise regulate the working conditions of employees (Article 14, paragraph 1).

### **Opinion of the Committee**

Article 2§6 guarantees the right of workers to written information when starting employment. This information can be included in the employment contract or another document<sup>12</sup>.

This information must be provided to workers as soon as possible and in any event not later than two months after the date of commencement of their employment and must cover at least the

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<sup>5</sup> Conclusions II (1971), Statement of Interpretation on Article 2§4

<sup>6</sup> *STTK ry and Tehy ry v. Finland*, Complaint No. 10/2000, Decision on the merits of 17 October 2001, §20

<sup>7</sup> Conclusions V (1977), Statement of Interpretation on Article 2§4

<sup>8</sup> Conclusions III (1973), Ireland

<sup>9</sup> Conclusions 2005, Statement of Interpretation on Article 2§4

<sup>10</sup> *Marangopoulos Foundation for Human Rights (MFHR) v. Greece*, Complaint No. 30/2005, decision on the merits of 6 December 2006, §236

<sup>11</sup> Conclusions 2014, Netherlands

<sup>12</sup> Conclusions 2014, Republic of Moldova

essential aspects of the employment relationship or contract, as specified in the case law of the Committee<sup>13</sup>.

In view of the information provided and subject to compliance with the required notification period for the employment contract, the Committee considers that there are no major obstacles for Georgia to accept Article 2§6 of the Charter.

### ***Article 3 § 1 – The right to safe and healthy working conditions: Health and safety and the working environment***

#### **Situation in Georgia**

On 30 December 2019, the National Strategy 2019-2023 for Labour and Employment Policy was approved by Resolution N662 of the Government of Georgia. Promoting the effective functioning of the labour market is one of the main priorities of the strategy, which aims to improve safety at work and the system for implementing human rights in the workplace.

The strategy aims to strengthen the institutional capacity of the labour inspection system and ensure the protection of labour rights in accordance with internationally recognised standards.

To this end, the Georgian Law on Labour Inspection was adopted in 2020, stipulating the obligation of the State to establish a Labour Inspection Service. This service started to operate from 1 January 2021.

The social partners are actively involved in the development of occupational safety policy in the form of the Tripartite Social Partnership Commission and working groups. In this regard, the report of the Government of Georgia highlights the Action Plan of the Tripartite Social Partnership Commission for 2020-2022, which covers issues such as health and safety protection at the workplace, institutionalisation of labour inspection, creation of an effective inspection mechanism, and ratification of International Labour Organisation conventions.

#### **Opinion of the Committee**

The Committee recalls that under Article 3§1, States Parties undertake to formulate, implement and periodically review a coherent occupational health and safety policy in consultation with the social partners<sup>14</sup>. The main objective of this policy must be to foster and preserve a culture of prevention in the areas of health and safety at national level, as opposed to a purely curative or compensatory approach. The policies and strategies adopted must be regularly assessed and reviewed, particularly in the light of changing risks<sup>15</sup>.

When devising and implementing national policies and strategies chosen by the relevant authorities, consultation with employers' and workers' organisations must take place at national, sectoral and company level<sup>16</sup>.

Article 3§1 requires consultation not only for tripartite co-operation between authorities, employers and workers to seek ways of improving their working conditions and working environment but also for the co-ordination of their activities and co-operation on key safety and prevention issues.

The Committee considers that Georgia has made a significant progress in adopting legislative changes and implementing policy reforms to promote safety at work and establish an effective enforcement mechanism.

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<sup>13</sup> See <https://rm.coe.int/digest-2018-parts-i-ii-iii-iv-en/1680939f80>, p. 70

<sup>14</sup> Conclusions 2003, Statement of Interpretation on Article 3§1; see in particular Conclusions 2003, Bulgaria

<sup>15</sup> Conclusions 2005, Lithuania

<sup>16</sup> Conclusions XIV-2 (1998), Statement of Interpretation on Article 3

The Committee considers that Georgia has made significant progress in adopting legislative changes and implementing policy reforms to promote occupational safety and establish an effective enforcement mechanism. Already in its previous evaluation in 2015, it gave a positive assessment of the situation and recommended the acceptance of Article 3§1 of the Charter. In the light of the information provided, the Committee reiterates its opinion that there are no major obstacles to the acceptance by Georgia of Article 3§1 of the Charter and, consequently, it invites the authorities to consider accepting this provision in the near future.

### ***Article 3 § 2 – The right to safe and healthy working conditions: Safety and health regulations***

#### **Situation in Georgia**

The Georgia Law on Occupational Safety was adopted in 2018, amended in 2019 and given the status of an organic law. The purpose of this law is to determine the main requirements and key principles of preventive measures related to occupational safety, existing and expected threats, ways to avoid occupational accidents and diseases, training of employees and provision of information and consultations to them, and equal participation of employees in issues related to health protection.

In addition, two resolutions of the Government of Georgia and six decrees of the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia were adopted to ensure safe and healthy working conditions.

#### **Opinion of the Committee**

The Committee recalls that under Article 3§2, the right to safe and healthy working conditions implies the issuance of safety and health regulations providing for preventive and protective measures against workplace risks recognised by the scientific community and laid down in international regulations and standards, such as the ILO Conventions and European Union Directives on health and safety at work.

Domestic law must include framework legislation setting out employers' responsibilities and workers' rights and duties, as well as specific regulations. In view of the particularly variable nature of the subject matter in the light of technological, ergonomic and medical advances, existing regulations must be geared towards new circumstances where the rules prove to be out of touch with the situation. All workers, all workplaces and all sectors of activity must be covered by occupational safety and health regulations<sup>17</sup>, including self-employed persons, especially as the latter are often employed in high-risk sectors<sup>18</sup>.

Independent workers who intervene in several workplaces must suffer no discrimination in occupational safety and health matters, as compared to wage-earning workers or civil servants, and hence must also be covered by the regulations<sup>19</sup>.

Regulations must be drawn up in consultation with employers' and workers' organisations.

In the light of the information provided and the fact that the situation has been considered in conformity with the requirements of the Charter in 2015, the Committee reiterates its opinion that there are no major obstacles to the acceptance by Georgia of Article 3§2 of the Charter and, consequently, it invites the Georgian authorities to consider accepting this provision in the near future.

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<sup>17</sup> Conclusions II (1971), Statement of Interpretation on Article 3§2 (i.e. on Article 3§1 of the 1961 Charter)

<sup>18</sup> Conclusions 2005, Estonia

<sup>19</sup> Conclusions 2013, Statement of Interpretation on Article 3§2 (i.e. on Article 3§1 of the 1961 Charter)

### **Article 3 § 3 – The right to safe and healthy working conditions: Enforcement of safety and health regulations**

#### **Situation in Georgia**

In order for the Government of Georgia to give full effect to the amendments to the Georgian Labour Code and the Law on Labour Inspection, a full-fledged Labour Inspection Service is being established as of 2021.

The Labour Inspectorate supervises :

1. Compliance with the working conditions provided for in the Organic Law of Georgia on Occupational Safety and Labour Legislation;
2. The prevention of forced labour and labour exploitation;
3. Implementation of the recommendations developed to prevent the spread of the new coronavirus (COVID-19) in the workplace.

The institutional development of the Labour Inspection Service is underway and includes in the initial stage the setting up of two regional offices.

Labour inspectors are constantly trained and retrained and significant technical assistance has been provided by international donor organisations or projects. In order to enable the inspection service to work electronically and to create an efficient business process, work on the labour inspection management system has started with the support of the International Labour Organisation. In view of facilitating the inspection process, the Labour Inspectorate is working on the development of an internal procedural mechanism. To this end, a number of decrees have been drafted and adopted. In addition, with the support of the PSD TVET programme of GIZ, the Ministry developed and presented the mobile application "Construction Safety" to raise awareness among employees, employers and other interested parties.

The legislation provides for administrative liability for violations of the rules and standards laid down in the law.

#### **Opinion of the Committee**

The aim of Article 3§3 is to guarantee the effective implementation of the right to safety and health at work. This implies monitoring development of the number of injuries at work and occupational diseases, checking the application of regulations and consulting employers' and workers' organisations on this subject<sup>20</sup>.

The enforcement of safety and health regulations by measures of supervision is carried out in light of Part III Article A§4 of the Charter, whereby States Parties shall maintain a system of labour inspection appropriate to national conditions.

Monitoring of compliance with laws and regulations on occupational safety and health, including coercive measures (prevention is dealt with under Article 3§1 of the Charter) is a prerequisite for the right guaranteed by Article 3 to be effective<sup>21</sup>.

Article 3§3 does not prescribe any standard model for the organisation of labour inspection. States Parties must allocate them enough resources to enable them to conduct "a minimum number of

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<sup>20</sup> Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No 30/2005, decision on the merits of 6 December 2006, §231

<sup>21</sup> Marangopoulos Foundation for Human Rights (MFHR) v. Greece, Complaint No. 30/2005, Decision on the merits of 6 December 2006, §228

regular inspections to ensure that the largest possible number of workers benefit from the right enshrined in Article 3<sup>22</sup> and that the risk of accidents is reduced to a minimum.

The system of penalties in the event of breaches of the regulations must be efficient and dissuasive.

The enforcement of the regulations in law and in practice must be done in consultation with employers' and workers' organisations with regard to labour inspectorate activities other than participation in company inspections which is included in the "right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking" guaranteed by Article 22 of the Charter<sup>23</sup>.

The Committee welcomes the positive developments in Georgia with regard to the enforcement of safety and health regulations and, in particular, the setting up of the Labour Inspectorate with legal means to monitor working conditions from a health and safety perspective. In the light of the information available, the Committee is of the opinion that there are no major obstacles for Georgia to accept Article 3§3 of the Charter in the near future.

### ***Article 3 § 4 – The right to safe and healthy working conditions: Occupational health services***

#### **Situation in Georgia**

No information is provided on occupational health services.

#### **Opinion of the Committee**

The Committee recalls that Article 3§4 requires to promote, in consultation with employers' and workers' organisations, the progressive development of occupational health services that are accessible to all workers, in all branches of economic activity and for all enterprises. If those services are not established within all enterprises, public authorities must develop a strategy, in consultation with employers' and workers' organisations, for that purpose<sup>24</sup>.

Article 3§4 belongs to the provisions which include complex and onerous obligations to be implemented progressively. Any strategy to promote the progressive development of occupational health services must include the full national territory, cover nationals of other States Parties, and not only some branches of activity, major enterprises or especially severe risks, but all types of workers<sup>25</sup>.

Occupational health services have essentially preventive and advisory functions, which are specialised in occupational medicine<sup>26</sup>, beyond mere safety at work. They contribute to conducting workplace-related risk assessment and prevention, to worker health supervision, to training in matters of occupational safety and health, as well as to assessing working conditions impact on worker health<sup>27</sup>. They must be trained, endowed and staffed to identify, measure and prevent work-related stress, aggression and violence<sup>28</sup>.

In its last report in 2015, the Committee gave a positive assessment of the situation in Georgia but asked the Georgian authorities a number of questions. As no reply or information was provided, the Committee reserves its opinion on Georgia's capacity to accept Article 3§4 of the Charter.

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<sup>22</sup> Conclusions XIV-2 (1998), Belgium

<sup>23</sup> Conclusions 2005, Norway

<sup>24</sup> Conclusions 2003, Bulgaria

<sup>25</sup> Conclusions 2013, Ukraine

<sup>26</sup> Conclusions 2009, Ukraine

<sup>27</sup> Conclusions 2003, Bulgaria

<sup>28</sup> Conclusions 2013, Statement of Interpretation on Article 3§4

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

### **Situation in Georgia**

In accordance with the Law of Georgia on Remuneration in Public Institutions, adopted in 2017, the remuneration system is built on the principles of equality and transparency, which provide for equal pay for equal work, in accordance with the preliminary established rule and on the basis of the duties and responsibilities implied by the title/position.

In order to calculate the salaries allocated to the job titles/positions at the public agency, the Law on the State Budget of Georgia for a given budget year determines the nominal value of the minimum salary, which is multiplied by a relevant coefficient to determine a salary range for a specific job title/position for a given budget year.

On the basis of the amendments made in 2020, the Labour Code has determined the scope of the prohibition of discrimination, which also applies to pay conditions. The Labour Code also stipulates the employer's obligation to ensure that men and women receive equal pay for equal work.

### **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<sup>29</sup>, to branches or jobs not covered by collective agreement, to atypical jobs (assisted employment<sup>30</sup>) and to special regimes or statuses (minimum wage for migrant workers)<sup>31</sup>.

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<sup>32</sup>.

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<sup>33</sup>.

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.

In view of the information provided by the Georgian authorities, the Committee does not have sufficient data to assess the situation in the country in terms of the requirements of Article 4§1 of the Charter. Therefore, it invites the Georgian authorities to take into account its case law in this respect before drafting their next report on the non-accepted provisions<sup>34</sup>.

## **Article 4 § 5 – Right to a fair remuneration: Limits to deduction from wages**

### **Situation in Georgia**

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<sup>29</sup> Conclusions XX-3 (2014), Greece

<sup>30</sup> Conclusions 2014, France

<sup>31</sup> Conclusions 2014, Andorra

<sup>32</sup> Conclusions 2010, Statement of Interpretation on Article 4§1

<sup>33</sup> Conclusions XVI-2 (2003), Denmark

<sup>34</sup> See <https://rm.coe.int/digest-2018-parts-i-ii-iii-iv-en/1680939f80>, pp. 85-86

The Law of Georgia on Civil Service provides for disciplinary liability that can be imposed on a civil servant for disciplinary offence. Disciplinary sanctions include deductions of 10-50% of a civil servant's salary for one to six months.

The Labour Code of Georgia grants the employer the right to deduct from an employee's remuneration overpayments or any other amounts payable by the employee to the employer in connection with the employment relationship.

The total amount of a lump sum deduction from an employee's remuneration must not exceed 50% of the remuneration.

### **Opinion of the Committee**

The Committee recalls that Article 4§5 guarantees workers the right to their wage being subject to deductions. These can only be authorised in certain circumstances which are well-defined in a legal instrument (law, regulation, collective agreement or arbitration award). Article 4§5 applies also to civil servants and contractual staff in the civil service<sup>35</sup>.

Such deductions must be subject to reasonable limits and should not *per se* result in depriving workers and their dependents of their means of subsistence<sup>36</sup>.

The Committee needs more information to assess the situation regarding Article 4§5 of the Charter. In particular, it is not clear whether, after all the authorised deductions of up to 50% of wage, the lowest paid workers will have sufficient resources to provide for themselves and their dependants.

### ***Article 8 § 1 – Right of employed women to protection of maternity: Maternity leave***

#### **Situation in Georgia**

According to the legislation, a civil servant shall, upon request, be granted maternity and childcare leave of 730 calendar days. 183 calendar days of maternity and childcare leave shall be paid. 200 calendar days shall be paid in case of pregnancy complications or twin births. Remuneration shall be paid from the budget of the public agency, taking into account the salary rate assigned to the civil servant's post and the increase in grade. A civil servant holding a military or special rank shall receive, in addition to her salary, an increment based on the length of service and a remuneration based on the rank.

An employee shall be entitled, upon request, to paid maternity leave of 126 calendar days, and to paid maternity leave of 143 calendar days in case of pregnancy complications or twin births. An employee shall also be entitled to 604 calendar days of childcare leave and, in the case of pregnancy complications or the birth of twins, 587 calendar days. 57 calendar days of childcare leave shall be paid.

### **Opinion of the Committee**

The Committee recalls that Article 8§1 recognises the right of employed women to maternity leave and maternity benefits.

The right to maternity leave of at least 14 weeks must be guaranteed by law<sup>37</sup>. It must be guaranteed for all categories of employees<sup>38</sup> and the leave must be maternity leave and not sick leave.

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<sup>35</sup> Conclusions 2014, Portugal

<sup>36</sup> Conclusions XI-1 (1991), Greece

<sup>37</sup> Conclusions III (1973), Statement of Interpretation on Article 8§1

<sup>38</sup> Conclusions XV-2 (2001), Addendum, Malta

Maternity leave must be accompanied by the continued payment of the individual's remuneration or by the payment of social security benefits or benefits from public funds.

Regardless of the modality of payment, the level shall be adequate<sup>39</sup>. It should not be reduced substantially compared to the previous wage, and not be less than 70% of that wage<sup>40</sup>. Moreover, the minimum rate of compensation shall not fall below the poverty threshold defined as 50% of median equivalised income, calculated on the basis of the Eurostat at-risk-of-poverty threshold value<sup>41</sup>.

In the light of the information provided and the fact that the situation has been considered in conformity with the requirements of the Charter in 2015, the Committee reiterates its opinion that there are no major obstacles to the acceptance by Georgia of Article 8§1 of the Charter and, consequently, it invites the Georgian authorities to consider accepting this provision in the near future.

### ***Article 8 § 2 – Right of employed women to protection of maternity: Illegality of dismissal***

#### **Situation in Georgia**

During maternity leave, childcare leave and newborn adoption leave, the rights of a civil servant are protected by the Law on Civil Service, which includes an exhaustive list of grounds for dismissal of a civil servant. The Law does not provide any ground for dismissal of a civil servant during the above-mentioned leaves. A civil servant may only be dismissed on the grounds provided for in the Law. The Law further stipulates that a civil servant who is pregnant or has a child under 3 years of age cannot be dismissed because of the reorganisation of the public agency or/and its merger with other public agencies or because of the results of the assessment of a civil servant.

According to the Labour Code of Georgia, the termination of a civil servant's employment contract from the moment she informs her employer of her pregnancy, as well as during her maternity leave, childcare leave, leave for the adoption of a newborn child and additional parental leave, shall be inadmissible, except on the grounds provided for by law.

The Labour Code also guarantees the right of an employee, after the end of maternity leave, childcare leave or leave for the adoption of a newborn child, to return to the same job under the same conditions of employment, as well as to benefit from any improvement in terms and conditions of employment to which the employee would have been entitled if she had not taken the leave in question.

#### **Opinion of the Committee**

The Committee recalls that under Article 8§2, it must be unlawful to dismiss employees between the time they notify the employer of their pregnancy and the end of their maternity leave. Article 8§2 applies equally to women on fixed-term and open-ended contracts<sup>42</sup>.

However, it is not contrary to this provision to dismiss a pregnant woman when she has committed a fault justifying the termination of the employment contract<sup>43</sup>, when the undertaking ceases its activity or when the term provided for in the employment contract has expired<sup>44</sup>.

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<sup>39</sup> Conclusions 2015, Statement of Interpretation on Article 8§1

<sup>40</sup> Ibidem

<sup>41</sup> Conclusions XVII-2 (2005), Latvia

<sup>42</sup> Conclusions XIII-4 (1996), Austria

<sup>43</sup> Conclusions X-2 (1990), Spain

<sup>44</sup> Conclusions 2005, Estonia

In cases of illegal dismissal, domestic law legislation must provide for adequate and effective remedies, employees who consider that their rights in this respect have been violated must be entitled to take their case before the courts.

In the case of dismissal contrary to this provision, the reinstatement of the women should be the rule<sup>45</sup>. Exceptionally, if this is impossible (e.g. where the enterprise closes down) or the woman concerned does not wish it, adequate compensation must be ensured.

Taking into account the information provided, the Committee reiterates its opinion that there are no major obstacles for Georgia to accept Article 8§2 of the Charter. It therefore invites the Georgian authorities to consider accepting this provision.

### ***Article 9 – Right to vocational guidance***

#### **Situation in Georgia**

The Georgian Law on Vocational Education (adopted in 2018) imposes an obligation on the Ministry of Education and Science to develop and approve a strategy for guidance, counselling and career planning in formal education. With the help of the EU Technical Assistance Project 2020, the necessary work to develop a strategy and action plan has been initiated. At this stage, the final version of the strategy is being developed in consultation with stakeholders.

The Ministry of Education and Science of Georgia is also implementing the "Vocational Skills Development Programme", a tool of the career guidance service with a significant impact on promoting vocational education among young people, as well as encouraging collaboration between general education and VET institutions. The programme, which has involved 15 000 students since 2018, has equipped schools and raised awareness of the sector among students and their parents.

A procedure for vocational guidance for people with disabilities and special educational needs has been developed and is reflected in the regulation on inclusive vocational education. The approval process of this regulation is currently underway. The guideline on vocational guidance for people with disabilities and special educational needs has also been developed and training in this area has been provided to inclusive education specialists in VET institutions. At present, people with special educational needs are registered on the basis of an alternative test, which allows the best possible vocational choice to be made for candidates.

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<sup>45</sup> Conclusions 2005, Cyprus

## Opinion of the Committee

Article 9 imposes on States Parties to set up and operate a service that helps all persons, free of charge, to solve their problems relating to vocational guidance<sup>46</sup>. Vocational guidance is the service which assists all persons to solve problems related to occupational choice and with due regard to the individual's characteristics and their relation to occupational opportunity<sup>47</sup>.

The Committee recalls that the right to vocational guidance must be guaranteed within the school system (information on training and access to training) and within the labour market (information on vocational training and retraining, career planning, etc.). Vocational guidance - within the education system and in the labour market - must be provided by qualified staff (counsellors, psychologists and teachers) and in sufficient number, aiming to reach as many people as possible and with an adequate budget.

Equal treatment with respect to vocational guidance must be guaranteed to everyone, including nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned.

The Committee welcomes the efforts made by Georgia to ensure respect of the right to vocational guidance. It encourages the authorities to continue these initiatives in order to fully implement the projects under way.

In the light of the information available, the Committee is of the opinion that Georgia is in a position to meet in the near future the conditions enabling it to comply with the requirements of Article 9 of the Charter. It encourages the authorities to pursue its policy in this direction.

### ***Article 10 § 1 – Right to vocational training: Technical and vocational training; access to higher technical and university education***

#### **Situation in Georgia**

The Law of Georgia on Employment Support provides for training for jobseekers. Training is the offer of employment by the employer to the jobseeker to help him or her develop practical skills, improve knowledge and skills, and eventually find a job.

The state programme for the professional development of jobseekers ensures that applicants for vacant and/or potential jobs attend training courses for jobseekers and receive state grants. The target group of the training component is jobseekers, who are registered with the national employment support agency LEPL. A state grant is paid to beneficiaries who undergo training.

Programmes implemented in the field of social protection in the country also apply to stateless persons with status in Georgia, asylum seekers in Georgia, persons with refugee or humanitarian status, persons with neutral travel documents and others.

Vocational training is accessible to people with special educational needs and people with disabilities, who receive additional support.

At the higher education level, the Ministry of Education and Science of Georgia implements a student support programme, which funds representatives of various groups, including students with moderate and severe disabilities and students with autism spectrum disorders.

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<sup>46</sup> Conclusions I (1969), Statement of Interpretation on Article 9

<sup>47</sup> Conclusions IV (1975), Statement of Interpretation on Article 9

## **Opinion of the Committee**

The Committee recalls that the right to vocational training must be guaranteed to everyone<sup>48</sup>. The notion of vocational training under Article 10§1 covers: initial training - i.e. general and vocational secondary education - university and non-university higher education, and vocational training organised by other public or private actors, including continuing training (which is dealt with under Article 10§3 of the Charter).

University and non-university higher education are considered to be vocational training as far as they provide students with the knowledge and skills necessary to exercise a profession<sup>49</sup>.

Equal treatment with respect to access to vocational training must be guaranteed to non-nationals<sup>50</sup>.

Taking into account the information provided, the Committee reiterates its opinion that there are no major obstacles for Georgia to accept Article 10§1 of the Charter. It therefore invites the Georgian authorities to consider accepting this provision.

### ***Article 10 § 3 – Right to vocational training: Vocational training and retraining of adult workers***

#### **Situation in Georgia**

Labour legislation stipulates the obligation of an employer to support the professional development of an employee.

If the employer makes a decision on the employee's participation in vocational retraining, advanced training or any other training course, the period when the employee participates in such a course shall be included in the work time and shall be remunerated.

The Law of Georgia on Employment Support envisages employment with wage subsidy. Wage subsidy means employment for which the employer receives a material benefit - a subsidy for employing certain categories of jobseekers.

In order to ensure access to vocational education based on lifelong learning principle, the Ministry of Labour, Health and Social Affairs has developed a system of adult education within formal education, a system of recognition of non-formal education, VET programmes, in which general education components are integrated (which will allow students to receive general education alongside TVET and then access higher education), etc.

## **Opinion of the Committee**

The right to continuing vocational training must be guaranteed to employed and unemployed persons, including young unemployed people. Self-employed persons are also covered by this provision. Article 10§3 takes into consideration only those of the activation measures for unemployed people that strictly concern training, while Article 10§1 deals with general activation measures for unemployed people. The notion of continuing vocational training includes adult education<sup>51</sup>.

Equal treatment with respect to access to continuing vocational training must be guaranteed to non-nationals on the basis of the conditions mentioned under paragraph 1.

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<sup>48</sup> Conclusions I (1969), Statement of Interpretation on Article 10§1

<sup>49</sup> Conclusions 2003, France

<sup>50</sup> Conclusions XIV-2 (1998), Statement of Interpretation on Article 10§1

<sup>51</sup> Conclusions XIV-2 (1998), Statement of Interpretation on Article 10§3

Taking into account the information provided, the Committee reiterates its opinion that there are no major obstacles for Georgia to accept Article 10§1 of the Charter. It therefore invites the Georgian authorities to consider accepting this provision.

### **Article 10 § 5 – Right to vocational training: Full use of facilities available**

#### **Situation in Georgia**

In order to prepare qualified and competent people, in addition to modular programmes, work-based/dual programmes have been introduced, in which at least 50% of the learning outcomes are achieved in a real work environment. Draft regulations for work-based learning and for obtaining the status of 'teaching enterprise' have also been developed. Clearly defined, agreed and shared rules will support the private sector and stimulate the implementation of dual programmes.

Within the adult education system, private companies are able to offer vocational training/retraining programmes. The approval of the company as a provider of training/retraining programmes is governed by Government Decree N131 and the decision is based on the relevant standards.

In order to ensure quality, the methodology for monitoring the training/retraining system was developed by the visiting VET expert. This methodology incorporates international best practice in internal and external quality assurance mechanisms of training and retraining systems. The monitoring process aims to identify the key areas for further improvement and provide recommendations for the providers and main stakeholders.

#### **Opinion of the Committee**

The Committee recalls that Article 10§5 provides for complementary measures which are fundamental to make access effective in practice.

States Parties must ensure that vocational training, as defined in paragraph 1, is provided free of charge or that fees are progressively reduced. Equality of treatment shall be provided to nationals of other Parties lawfully resident or regularly working on the territory of the Party concerned.

Access to vocational training also implies the granting of financial assistance, whose importance is so great that the very existence of the right to vocational training may depend on it. Financial assistance should at least be available for those in need and shall be adequate<sup>52</sup>.

Equal treatment with respect to financial assistance must be guaranteed to non-nationals on the basis of the conditions mentioned under paragraph 1.

The time spent on supplementary training at the request of the employer must be included in the normal working-hours. The worker shall be currently under a working relationship with the employer requiring the training.

States Parties must evaluate their vocational training programmes for young workers, including the apprenticeships. In particular, the participation of employers' and workers' organisations is required in the supervision process<sup>53</sup>.

Taking into account the information provided, the Committee is of the opinion that there are no major obstacles for Georgia to accept Article 10§1 of the Charter. It therefore invites the Georgian authorities to consider accepting this provision.

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<sup>52</sup> Conclusion XVI-2 (2004), Slovak Republic

<sup>53</sup> Conclusions XIV-2 (1998), United Kingdom

**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 Georgia**

No information is available on the condition of the social security system in Georgia.

**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 European Code of Social Security requires acceptance of a higher number of parts than ILO Convention No 102; six of the nine parts must be accepted although certain branches count for more than one part: medical care counts as two parts, and old age counts as three. Each contingency sets minimum levels of personal coverage and minimum levels of benefits.

The Committee notes that Georgia has not ratified the European Code of Social Security, nor ILO Convention No 102. 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.

As no information was provided with regard to the functioning of the social security system in Georgia at a satisfactory level, the Committee reiterates its opinion that the current situation is not in line with Article 12§2 of the Charter.

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

**Situation in Georgia**

According to the Law of Georgia on the Legal Status of Foreigners and Stateless Persons, a foreigner permanently residing in Georgia has the same right to assistance, pension and other social benefits as a Georgian citizen. Therefore, the programmes implemented in the field of social protection in the country also apply to stateless persons with status in Georgia, asylum seekers in Georgia, persons with refugee or humanitarian status, persons with neutral travel documents and others. In addition, the Georgian Law on Social Assistance applies to persons permanently residing in Georgia and legally in need of special care, poor families and the homeless.

The issue of social security of a foreigner temporarily staying in Georgia is solved in accordance with the Georgian legislation and the international agreement of Georgia, in order to bring it in line with international acts.

**Opinion of the Committee**

Article 12§4 applies to nationals of other States Parties who no longer reside on the territory concerned but who did reside or worked regularly there in the past and acquired social security rights. The scope of Article 12§4 extends to refugees and stateless persons. Self-employed workers are also covered<sup>54</sup>.

In order to ensure the right to social security of persons moving between States, the right to equal treatment and the right to retention and maintenance of accrued rights must be guaranteed with respect to all existing branches of the social security system. There should be no disadvantage for a person who changes their country of employment where they have not completed the period of employment or insurance necessary under national legislation to confer entitlement and

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<sup>54</sup> Conclusions XIV-1 (1998), Turkey

determine the amount of certain benefits. This requires, where necessary, the aggregation of employment or insurance periods completed in another territory and, in the case of long-term benefits, a pro-rata approach to the conferral of entitlement, the calculation and payment of benefit.

In view of the information provided by the Georgian authorities, the Committee does not have sufficient data to assess the situation in the country in terms of the requirements of Article 12§4 of the Charter. Therefore, it invites the Georgian authorities to take into account its case law in this respect before drafting their next report on the non-accepted provisions<sup>55</sup>.

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

**Situation in Georgia**

Since 2013, the state's universal health care programme has been enacted, creating a protection mechanism against disastrous health expenses for every citizen; all citizens became beneficiaries of the programme. The universal health care programme has increased access to medical services, increased the use of medical services, reduced financial barriers and improved service coverage.

The beneficiary of the programme has the right to choose a health care facility throughout Georgia. The beneficiaries of the programme are Georgian citizens, holders of a status-neutral identity card, a status-neutral travel document, as well as stateless persons in Georgia, persons with refugee or humanitarian status and asylum seekers.

In addition to universal health care coverage, various targeted programmes (public health and disease-specific) are applicable.

**Opinion of the Committee**

The Committee recalls that, under Article 13§1, States must provide adequate medical and social assistance to all persons in need, both to their own nationals and to nationals of States Parties lawfully resident within their territory, on an equal footing. In addition, with reference to its Statement of Interpretation on Articles 13§1 and 13§4<sup>56</sup> regarding the scope of Articles 13§1 and 13§4 in terms of persons covered, the Committee considers that persons in an irregular situation in the territory of the State concerned are also protected by Article 13§1.

The entitlement to the right to social assistance arises when the person is unable to obtain resources “either by his own efforts or from other sources, in particular by benefits under a social security scheme”<sup>57</sup>. Article 13§1 clearly establishes that this right to social assistance takes the form of an individual right of access to social assistance in circumstances where the basic condition of eligibility is satisfied, which occurs when no other means of reaching a minimum income level consistent with human dignity are available to that person.

Article 13§1 requires that anyone without sufficient resources must be able to receive free medical assistance.

The Committee needs more information to assess the situation in Georgia with regard to the requirements of Article 13§1 of the Charter.

***Article 13 § 2 – Right to social and medical assistance: Non-discrimination in the exercise of social and political rights***

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<sup>55</sup> See <https://rm.coe.int/digest-2018-parts-i-ii-iii-iv-en/1680939f80>, pp. 140-142

<sup>56</sup> Conclusions 2013, Statement of Interpretation on Article 13§1 and 13§4

<sup>57</sup> Finnish Society for Social Rights v. Finland, Complaint No 88/2012, decision on the merits of 9 September 2014, §111

## **Situation in Georgia**

No information is available on measures taken to ensure non-discrimination in the exercise of social and political rights.

## **Opinion of the Committee**

The Committee recalls that under Article 13§2, persons receiving assistance must not suffer as a result any diminution of their political or social rights.

Provisions enshrining the principle of equality and prohibiting discrimination should be interpreted in practice in such a way as to prevent the use of material living conditions, social status or any other personal circumstances (for example, state of health) as justification for restriction with regard to civic or social rights<sup>58</sup>.

The social rights concerned must at least include those embodied in the Charter, starting with the right to assistance itself.

The political rights concerned go beyond those embodied in the European Convention on Human Rights<sup>59</sup>. They include, for example, access to civil service posts and the right to vote.

Beneficiaries of social or medical assistance must enjoy an effective protection against discriminatory measures, particularly with regard to their access to employment and public services<sup>60</sup>.

As no information has been provided on the measures taken to ensure non-discrimination in the exercise of social and political rights by beneficiaries of social or medical assistance in Georgia, the Committee considers that the current situation is not in line with Article 13§2 of the Charter, and encourages the Georgian authorities to take the necessary measures to achieve this.

## **Article 13 § 3 – Right to social and medical assistance: Prevention, abolition or alleviation of need**

### **Situation in Georgia**

No information is available on appropriate public or private services, such as counselling and personal assistance that may be needed to prevent, remove or alleviate personal or family needs.

### **Opinion of the Committee**

Article 13§3 concerns free of charge services offering advice and personal assistance specifically addressed to persons without adequate resources or at risk of becoming so<sup>61</sup>.

The social services referred to in Article 13§3 must play a role of prevention, support and treatment. The aim is to provide advice and assistance so that the persons concerned are fully aware of their entitlement to social and medical assistance and how to exercise them<sup>62</sup>.

In order to comply with the Charter, the main relevant social welfare services must ensure their users an equal and effective access, through the way they operate and are organised, including their geographical distribution; the number, qualifications and duties of the staff employed,

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<sup>58</sup> Conclusions 2002, Slovenia

<sup>59</sup> Conclusions XVIII-1 (2006), Malta

<sup>60</sup> Conclusions XVI-2 (2004), Hungary

<sup>61</sup> Conclusions 2013, Bosnia and Herzegovina.

<sup>62</sup> Conclusions XIII-4 (1996), Statement of Interpretation on Article 13

including voluntary staff; funding provided for those services and the adequacy of the material and staff resources on the one hand and the number of users on the other hand<sup>63</sup>.

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<sup>64</sup>.

As no information has been provided on measures taken to ensure appropriate public or private services, such as counselling and personal assistance that may be needed to prevent, remove or alleviate personal or family needs in Georgia, the Committee considers that the current situation is not in line with Article 13§3 of the Charter.

***Article 13 § 4 – Right to social and medical assistance: Specific emergency assistance for non-residents***

**Situation in Georgia**

Foreign citizens who are in the territory of Georgia are provided, if necessary, with the same quality of medical services as Georgian citizens under their own medical insurance. State Health programmes cover ambulance care, tuberculosis, HIV/AIDS, mental health, epidemiological surveillance and safe blood services.

**Opinion of the Committee**

The Committee recalls that the beneficiaries of this right to emergency social and medical assistance are foreign nationals who are lawfully present in a particular country but do not have resident status<sup>65 66</sup>.

States Parties are required to provide non-resident foreigners without resources – whether legally present or in an irregular situation - emergency social and medical assistance (accommodation, food, emergency care and clothing) to cope with an urgent and serious state of need. They are not required to apply the guaranteed income arrangements under their social protection systems<sup>67</sup>.

Migrant minors in an irregular situation in a country are entitled to receive health care extending beyond urgent medical assistance and including primary and secondary care, as well as psychological assistance<sup>68</sup>.

Emergency social assistance should be supported by a right to appeal to an independent body. This right must also be effective in practice<sup>69 70</sup>.

Given the information provided, the Committee cannot comment on the possibility of Georgia accepting Article 13§4, as the national report does not contain clear information on the situation in the country on this point.

***Article 15 § 1 – Right of persons with disabilities to independence, social integration and participation in the life of the community: Vocational training for persons with disabilities***

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<sup>63</sup> Ibidem

<sup>64</sup> Ibidem

<sup>65</sup> Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4

<sup>66</sup> Conclusions VII (1981), Statement of Interpretation on Article 13§4

<sup>67</sup> Conclusions XIII-4 (1996), Statement of Interpretation on Article 13

<sup>68</sup> *Défense des enfants international v. Belgium (DEI)*, complaint No. 69/2011, decision on the merits of 23 October 2012, §128

<sup>69</sup> *Conference of European Churches (CEC) v. the Netherlands* Complaint No. 90/2013, decision on the merits of 1 July 2014, §106.

<sup>70</sup> *European Federation of national organisations working with the Homeless (FEANSA) v. the Netherlands*, decision on the merits of 2 July 2014, §187

## Situation in Georgia

According to the Law of Georgia on Employment, a person with disabilities has the right to professional rehabilitation. The implementation of this right is ensured by LEPL State Agency for Employment Support. Vocational rehabilitation of a person with a disability involves developing an individual career development plan, carrying out other activities provided for in this Law, selecting a suitable job or other profitable activity, offering a short vocational training course to people with disabilities to help them change jobs or keep them. Short-term vocational training is a targeted activity that aims to prepare people with disabilities and help them acquire the knowledge and skills they will need to do the work assigned to them. Vocational training and vocational retraining programmes are carried out under the State Programme for Jobseekers 'Professional Development.

Since 2013, the formal vocational education and training system is state-funded and also accessible to people with disabilities and special educational needs. Most vocational schools have a ramp and adapted bathrooms. In parallel with the infrastructure, students with special educational needs receive additional funding - a quarterly voucher of GEL 1000.0.

Public TVET institutions provide special services for people with disabilities (e.g. sign language interpreter, individual assistant, learning process assistant, mobility trainer, inclusive education specialists, transport, etc.) and use individual learning plans (IEPs), adapted learning materials and guides. Special training for teachers and inclusive education specialists is regularly planned and delivered.

In each vocational education programme, at least 15% of the quotas are reserved for people with disabilities and special educational needs. An alternative vocational testing procedure has been developed to adapt the enrolment procedure to the individual needs of these people. This procedure allows professions to be tested under conditions adapted to each individual and to make the best possible occupational choice for applicants.

A guideline to vocational guidance for people with disabilities and special educational needs has been prepared by field experts for vocational education institutions.

## Opinion of the Committee

The Committee recalls that Article 15 applies to all persons with disabilities regardless of the nature and origin of their disability and irrespective of their age<sup>71</sup>. An equality of treatment should exist, not only by law but also in practice, between persons with disability who are nationals of a State Party and legally residing and persons with disability who are nationals of another State<sup>72</sup>.

According to Article 15§1, all persons with disabilities have a right to education and training: primary education, general and vocational secondary education as well as other forms of vocational training.

Article 15§1 of the Charter obliges States Parties to provide education for persons with disabilities, as well as vocational guidance and training, in either pillar of the education system, i.e. mainstream or special schools. Priority should be given to education in mainstream schools in order to secure the independence, social integration and participation in the life of the community of persons with disabilities through their education<sup>73</sup>.

'Integration' and 'inclusion' are two different concepts and one does not necessarily lead to the other. The right to inclusive education is about the right of the child to participate in the regular

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<sup>71</sup> *Association internationale Autisme-Europe (AIAE) v. France*, Complaint No. 13/2002, Decision on the merits of 4 November 2003, §48

<sup>72</sup> Conclusions XIV-2 (1998), Statement of Interpretation on article 15

<sup>73</sup> *European Action of the Disabled (AEH) v. France*, complaint No. 81/2012, Decision on the merits of 11 September 2013, §78

school and the obligation of the school to accept the child, taking into account the best interests of the child and his/her educational capacities and needs as a primary consideration<sup>74</sup>.

States Parties must take measures in order to enable integration and guarantee that both mainstream and special schools ensure adequate teaching. This means that in order to guarantee an equal and non-discriminatory treatment of people with disabilities, mainstream and special schools must ensure adapted teaching.

States Parties must take measures (such as the support of teachers and the accessibility of premises) in order to enable integration and must demonstrate that tangible progress is being made in setting up education systems which exclude nobody<sup>75</sup>.

Given the requirements of Article 15§1 of the Charter and in the light of the information provided, the Committee reiterates its opinion that there are no major obstacles for Georgia to accept this provision. It therefore invites the Georgian authorities to consider accepting Article 15§1.

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

**Situation in Georgia**

The Labour Code of Georgia stipulates that in order to comply with the principle of equal treatment guaranteeing the equal enjoyment of the rights of persons with disabilities, and in particular to comply with the principle of reasonable accommodation, the employer is obliged to take measures, where appropriate, to ensure that persons with disabilities have equal access to employment, career development, vocational development, vocational training and retraining, unless such measures would impose a disproportionate burden on the employer.

The Law of Georgia on Employment Support provides for the creation of protected workplaces for people with disabilities. For the purpose of adapting or creating a protected workplace, the LEPL State Agency for Employment Support is entitled to pay a grant to the employer provided that the protected workplace is maintained for at least 3 years.

For employment purposes, the Agency provides consultation to a person with a disability or special educational needs through a Supported Employment Consultant who has specific knowledge, skills and training.

The State Programme on Development of Employment Support Services aims at supporting the employment of vulnerable and uncompetitive persons.

From 2016 to 2019, supported counselling was provided to 953 people and 355 people with disabilities were employed in employment support programmes.

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<sup>74</sup> MDAC v. Belgium, Complaint No. 109/2014, Decision on the merits of 16 October 2014, §66

<sup>75</sup> Conclusions 2005, Cyprus

## **Opinion of the Committee**

The Committee recalls that Article 15§2 requires States Parties to promote an equal and effective access to employment on the open labour market for persons with disabilities<sup>76</sup>. It applies to persons with physical and/or intellectual disabilities<sup>77</sup>.

Legislation must prohibit discrimination on the grounds of disability<sup>78</sup> in order to create genuine equality of opportunities in the open labour market<sup>79</sup>, dismissal on the grounds of disability and provide an effective remedy to those who are found to have been unlawfully discriminated<sup>80</sup>.

Sheltered employment facilities must be reserved for those persons with disabilities who, due to their disability, cannot be integrated into the open labour market. They should aim to assist their beneficiaries to enter the open labour market.

Persons working in sheltered employment facilities where production is the main activity are entitled to the basic provisions of labour law and in particular the right to fair remuneration and trade union rights<sup>81</sup>.

The Committee welcomes the positive developments in ensuring the right to employment for persons with disabilities in Georgia, but would need more detailed information to reach a firm opinion on the level of conformity of the situation with Article 15§2 of the Charter. The Committee encourages the authorities of Georgia to continue their efforts to improve equal and effective access to employment on the open labour market for persons with disabilities and to consider the acceptance of Article 15§2 of the Charter.

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

### **Situation in Georgia**

The social protection system in Georgia includes various support and assistance programmes, including targeted social assistance, which is a special cash assistance programme aimed at reducing the poverty level of the most vulnerable households in the country. A family may receive a subsistence allowance if it has no income or income-generating assets. Support is provided on the basis of a grading system: families with lower scores receive more financial support. In addition, under the patronage of UNICEF, cash allowances were introduced for families with children under the age of 16. In collaboration with the World Bank, work is underway on the Targeted Social Assistance (TSA) programme to prepare and model various scenarios to improve the target rate.

Some measures have already been taken to improve the social, legal and economic protection of families. For example, by Resolution No. 262, on 31 March 2014, the Government of Georgia approved the "Programme for the Promotion of Demographic Situation", the objective of which is to improve the demographic situation in Georgia, especially in rural areas. The beneficiaries of the programme are the third or subsequent children born after 1 June 2014, whose biological mother/family lives in the region where the annual average natural growth indicator is negative (the mortality rate exceeds the birth rate).

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<sup>76</sup> Conclusions XX-1 (2012), Czech Republic

<sup>77</sup> Conclusions I (1969), Statement of Interpretation on article 15§2

<sup>78</sup> Conclusions 2003, Slovenia

<sup>79</sup> Conclusions 2012, Russian Federation

<sup>80</sup> Conclusions XIX-1 (2008), Czech Republic

<sup>81</sup> Conclusions XVII-2 (2005), Czech Republic

## **Opinion of the Committee**

The Charter refers to the definitions of the family used in the internal law of each State Party. Therefore, Article 16 protects families considered as such in the internal law of each State. However domestic law must not provide for an unduly restrictive definition.

With regard to social protection, Article 16 guarantees the right to decent housing for families, the right to available, affordable and good quality childcare facilities, family counselling and psychological guidance on child-rearing. In order to ensure that the views of families are taken into account in the formulation of family policy, all civil organisations representing families should be consulted by the competent authorities.

With regard to legal protection, Article 16 covers the rights and obligations of spouses, parental rights, mediation services available to families and combating all forms of domestic violence<sup>82</sup>.

With regard to economic protection, Article 16 requires States Parties to ensure the economic protection of the family by appropriate means, including adequate family benefits. The protection of vulnerable families, including single-parent families and Roma families, must be provided in accordance with the principle of equal treatment. States Parties must ensure equal treatment of foreign nationals of other States Parties who are lawfully resident or legally employed in their territory with regard to family benefits.

In the light of the information provided by the Georgian authorities, the Committee understands that some measures have been taken to improve the economic protection of families. However, no information has been provided on the social and legal protection of families required by Article 16 of the Charter. The Committee therefore considers that the situation is not in line with the requirements of Article 16 of the Charter and encourages the Georgian authorities to take the necessary measures to bring the situation in law and in practice in line with the Charter.

### ***Article 17§2 – Right of children and young persons to social, legal and economic protection: Free primary and secondary education – regular attendance at school***

#### **Situation in Georgia**

The Ministry of Education and Science of Georgia implements the "Program for Promoting Inclusive Learning", which aims to provide an equally accessible educational environment for people with disabilities. The status of the programme is current, it is implemented annually.

## **Opinion of the Committee**

The Committee recalls that Article 17 requires States Parties to establish and maintain an education system that is both accessible and effective. The number of children enrolled in school should reach 100% of those of the relevant age. There must be a mechanism to control the quality of teaching and the methods used. Education must be compulsory until the minimum age for admission to employment<sup>83</sup>.

Equal access to education must be ensured for all children, including children from vulnerable groups that must be integrated into mainstream educational facilities and ordinary educational schemes.

States Parties must ensure the quality of education, which includes a sufficient number of schools equitably distributed throughout the country and class sizes that allow teachers to work effectively with each child.

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<sup>82</sup> See <https://rm.coe.int/digest-2018-parts-i-ii-iii-iv-en/1680939f80>, pp. 166-167

<sup>83</sup> Conclusions 2003, Statement of interpretation on Article 17

Primary and secondary education must be free of charge. Article 17§2 implies that all hidden costs such as books or uniforms must be reasonable, and assistance must be available to limit their impact on the most vulnerable population groups so as not to undermine the goal being pursued<sup>84</sup>.

Given the information provided by the Georgian authorities, the Committee cannot comment on the possibility of accepting Article 17§2 by Georgia as the national report does not contain clear information on the situation in the country on this point.

### ***Article 21 – Right of workers to be informed and consulted***

#### **Situation in Georgia**

The chapter "Provision of information and consultations" of the Labour Code of Georgia regulates issues relating to the employer's obligation to provide information to employees and to facilitate consultations between employers and employees in undertakings regularly employing at least 50 people. This right is exercised through employee representatives.

According to the law, the employer shall provide the employees' representatives with information and consultation on the following issues:

- the recent and probable development of the enterprise's activities and economic situation;
- the state of employment, its structure and probable development within the enterprise and any measure which may have a significant impact on employees' pay and conditions of employment, or/and which may threaten the continuation of the employment relationship ;
- decisions likely to lead to substantial changes in the organisation of work.

The employer shall provide the relevant information to the employee representatives within a reasonable time, but no later than 30 days before the day on which the employer takes a decision which could affect the interests of the employees.

An employer can refuse to provide information or consultation if, according to objective criteria, it would seriously hinder or prejudice the operation of the business. Employee representatives can appeal to the courts against this refusal.

#### **Opinion of the Committee**

The Committee recalls that Article 21 applies to all undertakings, whether private or public. States Parties may exclude from the scope of this provision those undertakings employing less than a certain number of workers, to be determined by national legislation or practice. Workers and/or their representatives (trade unions, worker's delegates, health and safety representatives, works' councils) must be informed on all matters relevant to their working environment<sup>85</sup> except where the conduct of business requires that certain confidential information be withheld.

Workers must be consulted in good time with respect to proposed decisions that could substantially affect the workers' interests, in particular those which may have an impact on their employment status.

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<sup>84</sup> European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France, Complaint No. 82/2012, decision on the merits of 19 March 2013, §31

<sup>85</sup> Conclusions 2010, Belgium

These rights must be effectively guaranteed. In particular, workers must have legal remedies when these rights are not respected<sup>86</sup>. There must also be sanctions for employers which fail to fulfil their obligations under Article 21<sup>87</sup>.

Given the requirements of Article 21 and in the light of the information provided, the Committee reiterates its opinion that there are no major obstacles for Georgia to accept this provision. It therefore invites the Georgian authorities to consider accepting Article 21 of the Charter.

### ***Article 22 – Right of workers to take part in the determination and improvement of working conditions and working environment***

#### **Situation in Georgia**

The Georgian authorities refer to the information provided under Articles 3§4 and 21.

According to Article 6 of the Law of Georgia on Occupational Safety, before making a decision, the employer must ensure the participation of employees and/or an employee representative in matters related to safety at work, which shall include consultations with employees, the right of an employee or a representative of employees to initiate a proposal regarding occupational safety and balanced participation.

#### **Opinion of the Committee**

The Committee recalls that Article 22 applies to all undertakings, whether private or public. States Parties may exclude from the scope of this provision those undertakings employing less than a certain number of workers, to be determined by national legislation or practice<sup>88</sup> and tendency undertakings.

Workers and/or their representatives (trade unions, worker's delegates, health and safety representatives, works councils) must be granted an effective right to participate in the decision-making process and the supervision of the observance of regulations in all matters referred to in this provision.

Workers must have legal remedies when these rights are not respected<sup>89</sup>. There must also be sanctions for employers which fail to fulfil their obligations under Article 22<sup>90</sup>.

Given the requirements of Article 22 of the Charter and in the light of the information provided, the Committee reiterates its opinion that there are no major obstacles for Georgia to accept this provision. It therefore invites the Georgian authorities to consider accepting Article 22 of the Charter.

### ***Article 23 – Right of the elderly to social protection***

#### **Situation in Georgia**

In order to ensure the protection of social rights and the prevention of poverty among the older people, the state provides all older people with a social pension, a set of social benefits and implements various social programmes. The only eligibility requirement for the pension is age, 60 for women and 65 for men.

According to the amendment to the Law of Georgia on State Pensions in 2020 and according to the rule of pension indexation from 2021 onwards, the pension of all pensioners will not increase

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<sup>86</sup> Conclusions 2003, Romania

<sup>87</sup> Conclusions 2005, Lithuania

<sup>88</sup> Conclusions 2005, Estonia

<sup>89</sup> Conclusions 2003, Bulgaria

<sup>90</sup> Conclusions 2003, Slovenia

less than the rate of inflation and, in the case of pensioners aged 70 and over, inflation will add up to 80% of the real economic growth.

According to the State Law on "Development of the High Mountain Region" of September 2016, people living permanently in mountain regions and receiving a State pension or a social benefit package receive an additional benefit amounting to 20% of the amount of the State pension or the social benefit package.

To eliminate the worst forms of poverty and social risk, the government is implementing the Targeted Social Assistance (TSA) programme.

In order to support social integration and promote independent living for the older people, a community service programme has been established. This programme includes accommodation, daily services, food, primary medical assistance, outpatient and inpatient medical care as well as the implementation of a programme of individual services according to individual preferences and abilities. Clothing and personal hygiene products are provided.

To improve the functional independence and social integration of disabled and older people, the government funds an assistive devices programme, which includes the provision of wheelchairs, prosthetic and orthopaedic products, canes, hearing aids and crutches.

Since 2013, under the universal health care programme, the following services have been provided to the retirement age population: planned outpatient services (free), emergency outpatient services (free) and emergency hospital services (10% of the patient's co-payment), planned surgical services (10% of the patient's co-payment), treatment of oncological diseases (free chemo, hormonal and radiotherapy), management of infectious diseases (free), as well as essential drugs for chronic diseases (free).

### **Opinion of the Committee**

The Committee recalls that Article 23 of the Charter is the first human rights treaty provision to specifically protect the rights of the older people. The measures envisaged by this provision, by their objectives as much as by the means of implementing them, point towards a new and progressive notion of what life should be for older persons, obliging the Parties to devise and carry out coherent actions in the different areas covered<sup>91</sup>.

The Committee takes note of the information provided by the Georgian authorities. It encourages the authorities of Georgia to continue their work towards providing the appropriate legal framework and its implementation in practice to ensure the respect of right of the older people to social protection.

In this respect, it refers to its conclusions and decisions relating to Article 23 of the Charter<sup>92</sup>.

On the basis of the information available, the Committee considers that the situation in Georgia is not in line with Article 23 of the Charter.

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<sup>91</sup> Conclusions XIII-3, Statement of Interpretation on Article 4 of the Additional Protocol (Article 23)

<sup>92</sup> See <https://rm.coe.int/digest-2018-parts-i-ii-iii-iv-en/1680939f80> pp. 199-202

## **Article 24 – Right to protection in case of dismissal**

### **Situation in Georgia**

The Labour Code of Georgia provides an exhaustive list of grounds for termination of the employment contract. Termination of the employment contract on grounds other than those specified by law is not permitted.

An employee may appeal to a court against the employer's decision to terminate the employment contract. If a court refuses to accept or rejects an application filed by the employee, the employee may re-file the same application with a court.

If the employer's decision to terminate the employment contract is declared null and void by the court, the employer must reinstate the person whose employment contract has been terminated, or provide him or her with equivalent employment, or pay compensation in an amount determined by the court.

The employee may, in addition to reinstatement in his or her original job, or obtaining equal employment, or receiving compensation in exchange, claim compensation for loss of earnings from the date on which the employment contract was terminated until the date on which the final court decision declaring the annulment of the employer's decision to terminate the employment contract has been enforced.

### **Opinion of the Committee**

Article 24 relates to termination of employment at the initiative of the employer.

All workers who have signed an employment contract are entitled to protection in the event of termination of employment. However, according to the appendix, the States Party may exclude one or more of the following categories:

- workers engaged under a contract of employment for a specified period of time or a specified task;
- workers undergoing a period of probation or a qualifying period of employment, provided that this is determined in advance and is of a reasonable duration. Exclusion of employees from protection against dismissal for six months or 26 weeks is not considered reasonable if it is applied indiscriminately, regardless of the employee's qualifications;
- workers engaged on a casual basis for a short period.

This list is exhaustive.

The Committee refers to its conclusions and decisions regarding the definition of valid reasons for the termination of employment and the prohibition of termination of employment for certain reasons<sup>93</sup>.

Any employee who believes that he or she has been dismissed without just cause should have the right to appeal to an impartial body.

Employees dismissed without valid reason must be granted adequate compensation or other appropriate relief.

Given the requirements of Article 24 of the Charter and in the light of the information provided, the Committee considers that there are no major obstacles for Georgia to accept this provision. It therefore invites the Georgian authorities to consider accepting Article 24 of the Charter.

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<sup>93</sup> See <https://rm.coe.int/digest-2018-parts-i-ii-iii-iv-en/1680939f80> pp. 204-206

## **Article 25 – Right of workers to protection of their claims in the event of insolvency of the employer**

### **Situation in Georgia**

The Law on Rehabilitation and Collective Satisfaction of Creditors was adopted in 2020 and entered into force on 1 April 2021. The law aims to satisfy creditors' claims collectively by achieving rehabilitation and, where this is not possible, by distributing the proceeds of the sale of the insolvency estate.

According to the law, in the event of the debtor's insolvency, preferential claims must be paid by the debtor's insolvency estate.

Preferential claims are amounts to cover the expenses of 3 months' salaries and leave of workers payable before a court declares an application for insolvency admissible, and amounts payable due to an occupational injury.

### **Opinion of the Committee**

The Committee recalls that Article 25 of the Charter guarantees individuals the right to protection of their claims in the event of the insolvency of their employer. States Parties having accepted this provision benefit from a margin of discretion as to the form of protection of workers' claims and so Article 25 does not require the existence of a specific guarantee institution.

However, the protection afforded, whatever its form, must be adequate and effective, also in situations where the assets of an enterprise are insufficient to cover salaries owed to workers<sup>94</sup>. Guarantees must exist for workers that their claims will be satisfied in such cases<sup>95</sup>. The protection should also apply in situations where the employer's assets are recognised as insufficient to justify the opening of formal insolvency proceedings<sup>96</sup>.

States Parties may limit the protection of workers' claims to a prescribed amount which shall be of a socially acceptable level, namely not less than three months wage under a privilege system and eight weeks under a guarantee system. The workers' claims covered should also include holiday pay due as a result of work performed during the year in which the insolvency or the termination of employment occurred<sup>97</sup>.

In its 2015 report, the Committee gave a negative assessment of the situation in Georgia regarding the acceptance of Article 25. In the light of the information provided in 2021 by the Georgian authorities, the Committee considers that significant steps have been taken to ensure compliance with the requirements of this provision.

Pending information on the implementation of the Law on Rehabilitation and Collective Satisfaction of Creditors, the Committee reserves its opinion on Georgia's ability to accept Article 25 of the Charter.

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<sup>94</sup> Conclusions 2003, France

<sup>95</sup> Conclusion 2012, Ireland

<sup>96</sup> Conclusions 2008, Slovenia

<sup>97</sup> Conclusions 2012, Slovakia

## ***Article 28 – Right of workers’ representatives to protection in the undertaking and facilities to be accorded to them***

### **Situation in Georgia**

No information is available on the situation in Georgia with regard to Article 28 of the Charter.

### **Opinion of the Committee**

The Committee recalls that Article 28 of the Charter guarantees the right of workers’ representatives to protection in the undertaking and to certain facilities. It complements Article 5, which recognises a similar right in respect of trade union representatives<sup>98</sup>. The term “workers’ representatives” means persons who are recognised as such under national legislation or practice.

Protection should cover the prohibition of dismissal on the ground of being a workers’ representative and the protection against detriment in employment other than dismissal<sup>99</sup>. The protection afforded to worker representatives should extend for a period beyond the mandate - six months is considered a reasonable period.

The protection afforded to employee representatives should extend beyond the term of office - six months is considered a reasonable time frame<sup>100</sup>.

Remedies must be available to worker representatives to allow them to contest their dismissal<sup>101</sup>.

Where a dismissal based on trade union membership has occurred, there must be adequate compensation proportionate to the damage suffered by the victim.

States Parties shall ensure that workers’ representatives are provided with appropriate facilities to enable them to perform their functions promptly and effectively, taking into account the industrial relations system of the country and the needs, size and capabilities of the enterprise concerned.

As no information has been provided on the measures taken in Georgia to ensure the protection of workers’ representatives, as required by Article 28 of the Charter, the Committee reiterates its opinion that the current situation is not in line with this provision, and encourages the Georgian authorities to take the relevant necessary measures to achieve this.

## ***Article 30 – Right to be protected against poverty and social exclusion***

### **Situation in Georgia**

One of the most important measures to combat poverty is to provide people with a subsistence allowance. Cash assistance is provided in the form of a state pension (pensioners), state compensation (special groups), a social package (disabled people, including children, orphans, survivors, etc.) and non-financial social assistance - social services for the older people, vulnerable children, including children deprived of parental care, disabled people/children, victims of domestic violence and abuse. As of January 2021, the subsistence allowance received 532,242 people, about 100,000 more than the previous year.

In collaboration with the World Bank, work is underway on the Targeted Social Assistance (TSA) programme to prepare and model various scenarios to improve the target rate.

The universal health care programme, launched in 2013, covers the following services, free of charge for people living below the poverty line: planned outpatient services, emergency outpatient

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<sup>98</sup> Conclusions 2003, Bulgaria

<sup>99</sup> Conclusions 2003, France

<sup>100</sup> Conclusions 2010, Bulgaria

<sup>101</sup> Conclusions 2010, Norway

and hospital services, planned surgical services, treatment of oncological diseases, management of infectious diseases and childbirth, as well as essential medicines for chronic diseases.

### **Opinion of the Committee**

The Committee recalls that with a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, Article 30 requires State parties to adopt an overall and coordinated approach, which shall consist of an analytical framework, a set of priorities and corresponding measures to prevent and remove obstacles to access to social rights, in particular employment, housing, training, education, culture and social and medical assistance<sup>102</sup>. The comprehensive and coordinated approach must link and integrate policies in a coherent way, going beyond a purely sectoral or target group approach and coordinating mechanisms, including at the level of delivery of assistance and services to those living in or at risk of poverty, should exist.

Adequate resources are one of the main elements of the overall strategy to combat social exclusion and poverty, and should therefore be allocated to achieve the objectives of the strategy<sup>103</sup>.

The measures taken should be adequate in their quality and quantity to the nature and extent of poverty and social exclusion in the country. They should strengthen access to social rights, their monitoring and enforcement, improve the procedures and management of benefits and services, improve information about social rights and related benefits and services, combat psychological and socio-cultural obstacles to accessing rights and where necessary specifically target the most vulnerable groups and regions<sup>104</sup>.

The Committee also recalls that Article 30 of the Charter requires the existence of monitoring mechanisms for reviewing and adapting the efforts in all areas and sectors, at all levels, national, regional, local, to combat poverty and social exclusion; mechanisms which should involve all relevant actors, including civil society and persons directly affected by poverty and exclusion.

The Committee has interpreted the scope of Article 30 as relating both to protection against poverty (understood as involving situations of social precarity) and protection against social exclusion (understood as involving obstacles to inclusion and citizen participation), in an autonomous manner or in combination with other connecting provisions of the Charter. These two dimensions of Article 30, poverty and social exclusion, constitute an expression of the principle of indivisibility which is also contained in other provisions of the Charter (for example, enjoyment of social assistance without suffering from a diminution of political or social rights, Article 13).

In its 2015 report, the Committee gave a negative assessment of the situation in Georgia regarding the acceptance of Article 30. In the light of the information provided in 2021 by the Georgian authorities, the Committee considers that significant steps have been taken to ensure compliance with the requirements of this provision.

In order to express an opinion on the extent to which the situation in Georgia complies with the requirements of Article 30, the Committee needs information on how the government co-ordinates efforts and measures in different areas to achieve the "overall and co-ordinated approach" required by this provision of the Charter and thus to take into account the multidimensional nature of poverty and social exclusion. No information is available on monitoring mechanisms and the participation of civil society and persons concerned in these mechanisms.

Pending the required information, the Committee reserves its opinion on Georgia's ability to accept Article 30 of the Charter.

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<sup>102</sup> Statement of interpretation on Article 30, Conclusions 2003, see e.g. Conclusions France

<sup>103</sup> Conclusions 2005, Slovenia

<sup>104</sup> Statement of interpretation on Article 30, Conclusions 2003, see e.g. Conclusions France

## **Article 30 §§ 1-3 – Right to housing: Adequate housing, Reduction of homelessness, Affordable housing**

### **Situation in Georgia**

Three key actors are currently involved in the policy development process: the Commission established by Resolution N190 of 12 April 2019 of the Government of Georgia and composed of decision-makers; the Working Group, which was created as part of the Commission's activities and brings together representatives of governmental and non-governmental, local and international organisations; and the donor organisation - United States Agency for International Development (USAID), Democratic Governance Initiative (GGI) Project, which is supporting the process of developing the housing policy document.

One of the tasks foreseen in the draft of the new National Strategy for Human Rights (2021-2030) is to « ensure the continued realisation of the right to adequate housing ». However, the current situation and future steps are not fully analysed at this stage. The Georgian government is trying to approximate the existing standards and mechanisms to the European legislation.

### **Opinion of the Committee**

The Committee recalls that Article 31 imposes to State Parties positive obligations. States must take the legal and practical measures which are necessary and adequate to the goal of the effective protection of the right in question. They enjoy a margin of discretion in determining the steps to be taken to ensure compliance with the Charter, in particular as regards to the balance to be struck between the general interest and the interest of a specific group and the choices which must be made in terms of priorities and resources<sup>105</sup>.

Article 31 cannot be interpreted as imposing on State Parties an obligation of “results”. However, the rights recognised in the Social Charter must take a practical and effective, rather than purely theoretical, form. This implies that, for the situation to be in conformity, State Parties must<sup>106</sup>:

- a) adopt the necessary legal, financial and operational means of ensuring steady progress towards achieving the goals laid down by the Charter;
- b) maintain meaningful statistics on needs, resources and results;
- c) undertake regular reviews of the impact of the strategies adopted;
- d) establish a timetable and not defer indefinitely the deadline for achieving the objectives of each stage;
- e) pay close attention to the impact of the policies adopted on each of the categories of persons concerned, particularly the most vulnerable.

In the light of the information provided on the measures taken in Georgia to guarantee the right to housing, as required by Article 31 §§1-3 of the Charter, the Committee reiterates its opinion that the current situation is not in line with this provision. It encourages the Georgian authorities to continue their efforts to establish the legal and practical basis for guaranteeing the right to adequate and affordable housing and to eliminate homelessness.

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<sup>105</sup> European Roma Rights Center (ERRC) v. Bulgaria, Complaint No. 31/2005, Decision on the merits of 18 October 2006, § 35

<sup>106</sup> International Movement ATD Fourth World v. France, complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60

## APPENDIX I

### — Georgia and the European Social Charter —

#### Signatures, ratifications and accepted provisions

Georgia ratified the Revised European Social Charter 22/08/2005, accepting 63 of the Revised Charter's 98 paragraphs.

Georgia has not yet ratified the Additional Protocol providing for a system of Collective Complaints.

#### Table of accepted provisions

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

#### 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 [reports concerning Georgia](#) in 2012 and in 2015. The Committee considers that there are no major obstacles to the acceptance by Georgia of the following provisions: Article 2§§3, 4 and 6, Article 3§§1 and 2, Article 10§§1, 3 and 5, Article 15§1, Article 21, Article 22 and Article 24.

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

## 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.