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**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

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

LITHUANIA

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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.

Lithuania ratified the Charter on 29 June 2001, accepting 86 out of 98 paragraphs. The following provisions are not yet accepted: Articles 12§2, 13§4, 18§§2 and 3, 19§§2, 4, 6, 8 and 12, 23, 30 and 31§3.

Lithuania has not accepted the system of collective complaints.

The procedure provided for by Article 22 of the 1961 Charter was applied for the first, second and third time in the context of a meeting in Vilnius between the members of the European Committee of Social Rights and the Secretariat and representatives of the Government of Lithuania (27 October 2007, 21 June 2011 and 6 April 2016 respectively).

In order to apply the procedure for the fourth time in 2021, the Lithuanian 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 Lithuania on 12 July 2021, the European Committee of Social Rights considers that there are no major obstacles to the acceptance of Articles 19§4, 19§8, 19§12, 23 and 30. Further clarification of the situation in law and practice would be required with respect to Articles 12§2, 13§4, 18§3, 19§§2 and 6 and 31§3. The Committee considers that the current legal situation and practice in Lithuania must be improved to meet the requirements of Article 18§2 of the Charter.

The Committee invites Lithuania 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 also encourages Lithuania 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 Lithuania for continued dialogue on the non-accepted provisions.

The next examination of the provisions not yet accepted by Lithuania will take place in 2026.

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

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 Lithuania

An updated analysis carried out in 2019 regarding compliance of Lithuanian legislation with the requirements of the European Code of Social Security (hereinafter – the Code), revealed that Lithuania could comply with the requirements of the following parts of the Code:

Part II (Medical care);
Part IV (Unemployment benefit);
Part V (Old-age benefit);
Part VIII (Maternity benefit);
Part IX (Invalidity benefit).

However, those branches did not exceed the standards of the Code by granting supplementary services of advantages listed in Addendum 2 of the Code as required by Sub-paragraph b of Paragraph 2, Article 2 of the Code.

Nevertheless, Lithuanian legislation complied completely with the requirements of the Part III (Sickness benefit) and exceeded the standards of the Code by granting supplementary services of advantages listed in Addendum 2 of the Code.

In addition, Lithuania is constantly analysing the advantages and disadvantages of the social security system and looking for ways to improve access to the social security system and the social security rights of the insured, which is linked to financing issues.

Taking into account all the challenges related to the social security system, the Lithuanian government has prepared a legislative plan for the years 2021-2024 in the form of a list of draft laws implementing the government's programme: revising the Law on Social Unemployment Insurance in 2022, evaluating the possibility of extending the duration of benefit payments, reducing the length of the required insurance period, include the remaining groups of self-employed workers in the social unemployment insurance system and set appropriate rates of social unemployment insurance contributions.

It is crucial to adapt the existing insurance rules for employees in an appropriate way to the specific needs of the self-employed.

In order to implement the government's programme and legislative plan for the years 2021-2024, there will be a comprehensive review of the level of sickness, maternity, paternity and childcare benefits, as well as bringing the minimum amounts of these benefits up to the level of minimum consumption needs in 2023.

Opinion of the Committee

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

The Committee notes that Lithuania signed the European Code of Social Security on 15 November 2005. It also notes that Lithuania has not ratified ILO Convention No 102.

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

The Committee considers that the situation in Lithuania with regard to the social security system remains unchanged since the last evaluation. It notes the Government's programme and legislative plan for 2021-2024. The Committee encourages the Lithuanian authorities to implement this programme and legislative plan as soon as possible. Pending information on further developments in this area, the Committee reserves its opinion on Lithuania's ability to accept Article 12§2 of the Charter.

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

Situation in Lithuania

The Lithuanian authorities confirmed the legal framework as described in the third report on non-accepted provisions.

They also indicated that third-country nationals employed with a National D visa are not covered by compulsory health insurance. They are privately insured for the duration of the visa. The costs, as well as the necessary medical assistance, are paid by the private insurance.

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^{1 2}.

States Parties are required to provide non-resident foreigners without resources with 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 systems³.

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 assistance⁴.

Emergency social assistance should be supported by a right to appeal to an independent body. This right must also be effective in practice^{5 6}.

Having examined the report provided by the Lithuanian authorities, the Committee reiterates that the lack of information concerning emergency social and medical assistance available specifically to non-resident nationals of States Parties prevents it from assessing the situation in Lithuania.

¹ Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4

² Conclusions VII (1981), Statement of Interpretation on Article 13§4

³ Conclusions XIII-4 (1996), Statement of Interpretation on Article 13

⁴ *Défense des enfants international v. Belgium (DEI)*, complaint No. 69/2011, decision on the merits of 23 October 2012, §128

⁵ *Conference of European Churches (CEC) v. the Netherlands* Complaint No. 90/2013, decision on the merits of 1 July 2014, §106

⁶ *European Federation of national organisations working with the Homeless (FEANSA) v. the Netherlands*, decision on the merits of 2 July 2014, §187

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

Situation in Lithuania

The Lithuanian authorities confirmed the legal framework as described in the third report on non-accepted provisions.

In order for a foreign citizen to come and work in Lithuania, he/she must follow the following procedure: find a job vacancy/employer, obtain a work permit, get a visa/residence permit/visa of other EU Member State. A foreigner must obtain a work permit before arriving in Lithuania. A work permit for a foreigner may be issued if there is no specialist in Lithuania that meets the qualification requirements of the employer. The employment services are responsible for issuing, cancelling and renewing work permits, as well as adopting decisions on the suitability of a foreigner's work for the needs of the labour market, in cases of issuing temporary residence permits (single permit and Blue Card).

Foreigners who do not need to obtain a work permit (or a decision on compliance with labour market needs) are:

- citizens of the EU and EFTA Member States;
- third-country nationals who are family members of citizens of the Republic of Lithuania and who hold a temporary residence permit issued in the framework of family reunification or who have a permanent residence permit or a temporary or permanent residence card of a family member of an EU citizen;
- a foreigner whose profession is included in the list of shortage occupations by type of economic activity;
- a foreigner who comes to work in a profession included in the list of professions requiring high professional qualification, the staff of which is lacking in the Republic of Lithuania list;
- a foreigner who will be paid a salary of not less than 3 average monthly gross salary;
- a foreigner who has already worked in Lithuania for 2 years as a highly qualified worker and wishes to change the temporary residence permit.

The fees are as follows: work permit - 121€, seasonal work permit - 34€, decision on the conformity of a foreigner's work with the needs of the labour market - 28€.

Following the announcement of a COVID-19 emergency, the Employment Service temporarily modified customer service procedures to protect customers and employees from potential risks. There is currently a temporary lack of service for employers regarding the issuance of work permits for foreigners and the adoption of new decisions on the conformity of foreign work with the needs of the labour market of the Republic of Lithuania.

Opinion of the Committee

The Committee recalls that, with regard to the formalities to be completed, conformity with Article 18§2 presupposes the possibility of completing such formalities in the country of destination as well as in the country of origin⁷ and obtaining the residence and work permits at the same time and through a single application⁸. It also implies that the documents required (residence/work permits) will be delivered within a reasonable time⁹.

The dues and charges paid either by foreign workers or by their employers must not be set at a level likely to prevent or discourage foreign workers from seeking to engage in a gainful occupation, and

⁷ Conclusions XVII-2, Finland

⁸ Conclusions XVII-2, Germany

⁹ Conclusions XVII-2, Portugal

employers from seeking to employ foreign workers. In this respect, States Parties are required to demonstrate that they have taken measures to progressively reduce the level of fees and other charges payable by foreign workers or their employers¹⁰.

In the light of the information provided, the Committee notes that while the time needed for obtaining a work permit does not seem to pose problems of conformity with the Charter, it is not possible to obtain residence and work permits at the same time and through a single application. It therefore considers that the law and practice in Lithuania constitute an obstacle to the acceptance of Article 18§2 of the Charter. The Committee encourages the Lithuanian authorities to take measures to simplify the existing formalities for foreign workers to obtain residence and work permits.

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

Situation in Lithuania

Legal changes implemented in 2017 have made it easier for workers with an occupation of interest to Lithuania to be admitted. These workers do not need to obtain a work permit. Therefore, as of 2017, information on foreign workers is based on decisions to issue a temporary residence permit or a national D visa on the grounds of employment.

There are two lists of shortage occupations:

- List of occupations for which there is a shortage of employees in the Republic of Lithuania, by type of economic activity (approved by the Employment Service - Order No. V-430 of the Director of the Employment Service of 30 October 2020). The list is approved for one year, subject to quotas. After using the quota, foreigners will have to obtain a work permit or a decision on the conformity of the foreigner's work with the needs of the labour market of the Republic of Lithuania.

- List of professions requiring high professional qualifications for which there is a labour shortage in the Republic of Lithuania (approved by the Ministry of Economy and Innovation - Order No. 4-491 of the Minister of 30 August 2019). Foreigners may immediately apply for a national visa to the Lithuanian Embassy abroad, as well as for a temporary residence permit to the Migration Department.

All grounds for exemption from the obligation to obtain a work permit are regulated by Art. 58 of the Law on the Legal Status of Aliens (LLSA).

As from March 2021, new legislation on the employment of foreign workers will be implemented in Lithuania.

Opinion of the Committee

The Committee recalls that Article 18§3 requires States to periodically liberalise the regulations governing the employment of foreign workers in the following areas: access to the national labour market, the right to engage in an occupation and rights in the event of loss of employment.

In view of ensuring the effective exercise of this right, States Parties' engagement in liberalisation shall include regulations governing the recognition of foreign certifications, professional qualifications and diplomas, to the extent that such qualifications and certifications are necessary to engage in a gainful occupation as employees or self-employed workers¹¹.

¹⁰ Statement of Interpretation on Article 18§2, 2012

¹¹ Statement of Interpretation on Article 18§3, 2012

The Committee takes note of the information provided by the authorities of Lithuania and observes that no information was available, in particular as regards the rights in the event of loss of employment and the conditions that apply in respect of foreigners (in particular, nationals of non-EEA States Parties to the Charter) wishing to access the Lithuanian labour market as self-employed. This lack of information prevents the Committee from assessing the situation in Lithuania.

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

Situation in Lithuania

The Lithuanian authorities confirmed the legal framework concerning, in particular, the conditions for issuing and replacing a temporary residence permit (TRP) to a foreign worker, family reunion and health insurance, as described in the third report on non-accepted provisions.

They also indicated that all foreigners legally residing and working in the Republic of Lithuania are under obligation to participate in the compulsory health insurance system. They are entitled to free health care under the same conditions as permanent residents of the Republic of Lithuania. Their minor children are also covered by compulsory health insurance.

According to the provisions of the LLSA, foreigners entering the Republic of Lithuania with a national visa must have private health insurance valid for the entire period of validity of the visa. The LLSA stipulates that this health insurance must guarantee coverage of the cost of necessary health care, as defined in the Law on the Health Care System of the Republic of Lithuania, and of expenses that may arise due to the repatriation of the foreigner to his or her home country. In addition to the other requirements for private health insurance, it must be valid in all Schengen States and the amount of insurance must be at least EUR 30 000. Private health insurance is a necessary condition for obtaining a visa.

Opinion of the Committee

The Committee recalls that Article 19§2 obliges States Parties to adopt special measures for the benefit of migrant workers, beyond those which are provided for nationals, to facilitate their departure, journey and reception¹². Reception must include not only assistance with regard to placement and integration in the workplace, but also assistance in overcoming problems, such as short-term accommodation, illness, shortage of money and adequate health measures¹³.

Article 19§2 does not provide for a right of establishment and therefore does not concern the conditions under which foreign nationals are entitled to a residence or work permit (these aspects being assessed under Article 18 for foreign workers). Nor does it concern the right to health insurance.

Given the information provided by the Lithuanian authorities, the Committee cannot comment on the possibility of accepting Article 19§2 by Lithuania, as the national report does not contain clear information on the situation in the country regarding the special measures for migrant workers required by this provision.

¹² Conclusions III (1973), Cyprus

¹³ Conclusions IV (1975), Statement of interpretation on Article 19§2

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

Situation in Lithuania

Remuneration and other employment and working conditions

Article 2 of the Labour Code of the Republic of Lithuania stipulates that labour relations shall be regulated in accordance with the principles of legal certainty, protection of legitimate expectations and comprehensive defence of labour rights, provision of safe and healthy working conditions, stability of labour relations, freedom of choice of employment, fair remuneration of work, equality of subjects of labour law irrespective of sex, sexual orientation, race, nationality, language, origin, social status, faith, intention to have a child or children, marital and family status, age, beliefs or opinions, political affiliation or circumstances unrelated to the employees' professional qualities, freedom of association, free collective bargaining and the right to take collective action.

Article 26 of the Labour Code establishes the principle of gender equality and non-discrimination on other grounds. In the employer's relations with employees, any direct or indirect discrimination, harassment, including sexual harassment, or incitement to discrimination on the grounds listed in Article 2 of the Code (mentioned above) or on other grounds established by laws, are prohibited.

In settling cases of gender equality and non-discrimination on other grounds related to employment relations, the burden of proof is on the employer to prove that there has been no discrimination if the employee specifies circumstances from which it can be presumed that he or she has suffered discrimination.

In accordance with Article 1 of the Law on Employment of the Republic of Lithuania, the labour market services and employment support measures established by this Law shall apply to [...] persons holding a residence permit in the Republic of Lithuania who are not citizens of the European Union as established in Article 20 (1) of the Treaty on the Functioning of the European Union and are not persons exercising freedom of movement in accordance with the legislation of the European Union (third-country nationals), who, in accordance with the legal acts of the Republic of Lithuania, are exempted from the obligation to obtain a work permit in the Republic of Lithuania for persons who have obtained the status of transferee.

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

Article 165 of the Labour Code of the Republic of Lithuania regulates the employee representation system. The employees' representatives shall include a trade union, a work council and an employees' trustee.

Article 2.38 of the Civil Code of the Republic of Lithuania - Trade Unions - states that « citizens of the Republic of Lithuania or natural persons domiciled in the Republic of Lithuania who are not younger than fourteen years of age and are employed on the basis of labour contracts or some other basis may be founders of a trade union ».

Article 1 of the Law on Trade Unions of the Republic of Lithuania states that « persons who are legally employed under an employment contract or on other statutory grounds in the territory of the Republic of Lithuania shall have the right to freely join trade unions and participate in their activities ».

Accommodation

According to the Law of the Republic of Lithuania on Support for the Acquisition or Rental of Housing, housing support must be provided in accordance with the principle of equality.

This law applies, among others, to family members of citizens of the Republic of Lithuania, EU Member States, as well as to foreigners holding a long-term residence permit in the EU and foreigners who have been granted asylum in the Republic of Lithuania.

A right of appeal to an administrative court or an administrative commission against the relevant administrative decisions is secured.

Foreigners temporarily living in Lithuania for work purposes are not prohibited from purchasing housing from individuals or applying for housing loans from commercial banks.

Opinion of the Committee

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

Given the information provided, the Committee reiterates its opinion that there are no major obstacles to the immediate acceptance of Article 19§4 of the Charter by Lithuania. It encourages the Lithuanian authorities to extend the right to join trade unions to all foreign workers, even those with temporary residence.

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

Situation in Lithuania

The Lithuanian authorities confirmed the legal framework for family reunion as described in the third report on non-accepted provisions.

They also indicated that the Ministry of Social Security and Labour will initiate and organise a discussion with interested institutions on the problem of family reunion of foreigners in Lithuania and, if necessary, improve the legal regulation.

Opinion of the Committee

The Committee recalls that Article 19§6 obliges States Parties to allow the families of migrants legally established in their territory to join them. The worker's children entitled to family reunion are those who are dependent and unmarried, and who fall under the legal age of majority in the receiving State.

In its conclusions and decisions, the Committee specified the conditions and restrictions of family reunion: refusal on health grounds, length of residence, housing condition, means requirement, language and/or integration tests, independent right to stay and effective remedy (mechanism of appeal or review)¹⁴.

Having examined the report provided by the Lithuanian authorities, the Committee reiterates its opinion that in order to assess the situation in Lithuania with regard to Article 19§6 of the Charter, it needs clear information on how the housing and means requirements are interpreted and applied in practice and the confirmation that no excessive conditions apply in relation to the length of residence of the migrant worker, or in relation to health or language criteria. It also stresses the importance of ensuring that family members of migrant workers can enjoy an independent right of residence, i.e. a right not to be automatically expelled if the migrant worker's residence permit is revoked. Pending this information, the Committee reserves its opinion.

¹⁴ See <https://rm.coe.int/digest-2018-parts-i-ii-iii-iv-en/1680939f80>, pp. 183-185

It invites the Lithuanian authorities to take measures to meet the requirements of Article 19§6 of the Charter and to consider its acceptance.

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

Situation in Lithuania

The Lithuanian authorities confirmed the legal framework on guarantees concerning deportation as described in the third report on non-accepted provisions.

In addition, they indicated that Article 9 (2) (Extradition) of the Criminal Code of the Republic of Lithuania (hereinafter CC) provides that a foreigner who has committed a criminal offence in the Republic of Lithuania or in another State may be extradited to that State or transferred to the International Criminal Court only on the basis of a resolution.

Article 9 (4) of the CC provides that persons who have been granted asylum or temporary protection under the laws of the Republic of Lithuania shall not be punished or extradited to foreign states for criminal acts for which they have been prosecuted abroad, except for crimes provided for by international agreements.

Opinion of the Committee

The Committee recalls that Article 19§8 obliges States Parties to prohibit by law the expulsion of migrants lawfully residing in their territory, except where they are a threat to national security, or offend against public interest or morality¹⁵. Such expulsions can only be in conformity with the Charter if they are ordered by a court or a judicial authority, or an administrative body whose decisions are subject to judicial review. Expulsion orders must be proportionate, taking into account all aspects of the non-nationals' behaviour as well as the circumstances and the length of time of his/her presence in the territory of the State.

National legislation should reflect the legal implications of Articles 18§1 and 19§8 of the Charter as well as the case-law of the European Court of Human Rights: foreign nationals who have been resident for a sufficient length of time in a state, either legally or with the tacit acceptance of their illegal status by the authorities in view of the host country's needs, should be covered by the rules protecting from deportation¹⁶.

The Committee reiterates its opinion that the general framework concerning deportation of foreigners as presented by the Lithuanian authorities is clear.

Given the requirements of Article 19§8 of the Charter and in the light of the information provided, the Committee reiterates its opinion that there are no major obstacles for Lithuania to accept this provision. It therefore invites the Lithuanian authorities to consider accepting Article 19§8 of the Charter. However, the Committee requests more information on the implementation of the legal framework, including Article 9 (4) of the Criminal Code.

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

Situation in Lithuania

Article 30 of the Law on Education of the Republic of Lithuania establishes the right to receive instruction in the State language and in the mother tongue. Every citizen of the Republic of Lithuania

¹⁵ Conclusions VI (1979), Cyprus

¹⁶ Conclusions 2011, Statement of Interpretation on Article 19§8

and foreigners having the right of permanent or temporary residence in the Republic of Lithuania are guaranteed to receive instruction in the State language and to learn the State language.

In general education and non-formal education schools whose regulations (statutes), respecting the requests of parents, guardians, trustees and learners, provide for teaching in a national minority language and the promotion of national minority culture, the teaching process shall be conducted or certain subjects shall be taught in the national minority language. In these schools, the Lithuanian language is an integral part of the curriculum and the time devoted to its teaching should not be less than that devoted to the teaching of the mother tongue. In these schools

- 1) the primary and basic curricula are taught in the language of the national minority, while some subjects may be taught in the state language at the request of the parents (guardians, curators);
- 2) the secondary school curriculum is taught in the language of the national minority. Subjects of the curriculum chosen by the learners may be taught in the state language.

State and municipal pre-schools and general education schools offer learners belonging to national minorities the opportunity to receive further education in their mother tongue, provided that there is a real need, a specialist in that language is available and the educational process is organised in another language of instruction.

During 2019-2020, a total of 31306 pupils studied in general education schools for national minorities (29988 in grades 1-12, 1318 in kindergartens), including: 5489 pupils studying Russian language; 11870 pupils studying Polish language; 225 pupils studying Belarusian language. General education schools for national minorities operated in 9 municipalities in Lithuania in 2019-2020: Vilnius City, Kaunas City, Klaipėda City, Šiauliai City, Visaginas Municipality, Šalčininkai District, Švenčionys District, Trakai District and Vilnius District. There are a total of 102 general education schools for national minorities in the 9 specified municipalities, of which: 10 in Lithuanian and Russian languages; 5 in Lithuanian and Polish languages; 7 in Russian and Polish languages; 5 in Lithuanian, Russian and Polish languages; 27 in Russian language; 47 in Polish language; 1 in Belarus language.

At the end of 2018, an analysis of the state of education of Lithuanian national minorities was presented by the Education Policy Analysis Division of the National School Evaluation Agency. The study reviews the current state of pre-school and general education of Lithuanian national minorities and its changes over the last five years. The full text of the analysis and its summary are available at www.nmva.smm.lt/politikos-analize/tyrimai-ir-analizes/.

There are 91 pre-school education institutions and 107 general education schools in the country where education is organised in the language of national minorities.

Opinion of the Committee

The Committee recalls that under Article 19§12, States Parties undertake to promote and facilitate the teaching, in schools or other structures, such as voluntary associations, of those languages that are most represented among migrants within their territory^{17 18}.

On the basis of the information provided, the Committee reiterates its opinion that there are no major obstacles to the acceptance by Lithuania of Article 19§12 of the Charter. It invites the Lithuanian authorities to take necessary steps to accept this provision without delay.

¹⁷ Conclusions 2002, Italy

¹⁸ Conclusions 2011, Armenia

Article 23 - Right of the elderly to social protection

Situation in Lithuania

Lithuanian legislation prohibits discrimination on the basis of age. It enshrines the established rights of older people, such as the right to health care and services, the right to appropriate care while respecting their privacy and participation in decision-making, etc. However, appropriate conditions are still lacking for older persons to be active members of society, to live in dignity, security and active life, and to participate fully in the social and cultural life of society.

In order to reduce social exclusion and in accordance with the Law of the Republic of Lithuania on Social Assistance in Cash for Poor Residents, the older people as well as poor families and single residents, whose income from work, social insurance and other sources is insufficient for objective reasons, are entitled to social benefits, compensations for heating of a dwelling, hot water and drinking water expenses which alleviate the burden of housing maintenance. The majority of the recipients of compensations are people of retirement age.

On 20 September 2018, a Strategy for Demographic, Migration and Integration Policy for 2018–2030 and its Implementation Plan were adopted. Enabling older people to participate in public life is one of the main objectives of the Strategy. This is to be achieved by ensuring the engagement of the older population in social and political life and in the labour market; by guaranteeing their financial security and lifelong learning opportunities; by improving the quality and availability of health care for older people in order to reduce their morbidity and mortality due to major non-infectious diseases or external causes; by strengthening intergenerational relations; and by developing voluntary activities among older people.

The opportunities for older people to participate in social and political life have been strengthened by supporting the projects of non-governmental organisations representing older people.

In view of the impact of the Covid-19 pandemic on older people, the Strategy's Implementation Plan was supplemented by new measures, including the development of emotional, psychological and informational support for older people; the strengthening of voluntary work for the benefit of older people; the promotion of joint projects between young people and older people to help them develop their computer skills; and the dissemination of information on the possibilities for older people to assert their rights.

Article 18(5) of the Law on Social Services of the Republic of Lithuania states that social services are provided to an older person by enabling him/her to live as long as possible in his/her home, family, self-management and assistance combined with employment, personal health care and special assistance measures to maintain social ties with family, relatives and society. The financial ability of a person (family) to pay for social services does not affect the ability of a person (family) to receive social services. Social services are provided and organised for older people, taking into account the individual interests and needs of the person (family).

According to the Catalogue of Social Services, the range of services offered to the older people in Lithuania is wide: general social services (e.g. organisation of transport, socio-cultural services), services provided at home (social assistance or day care), employment or day care in a day centre, psycho-social assistance, accommodation in a house for independent living, short or long-term care in an institution, temporary respite service for family members (relatives) caring for an older person. According to the data of the Department of Statistics, in 2020, 16,148 thousand older people received social services at home, 27 thousand - in day centres and 6,3 thousand - in care homes.

In 2019, in cooperation with the Ministry of Health and the Ministry of Social Security and Labour, the concept of long-term care services (comprehensive social and health care services at home or in institutions) was submitted to the Government of the Republic of Lithuania.

The Ministry of Social Security and Labour is currently implementing an EU-funded project: "Creating a model of opportunities for older people to integrate into social, political and cultural life and participate in professional activities ».

The Centre for Strategic Analysis of the Government 2020 has prepared an analytical study entitled "Aging Lithuanian Society", which analyses the government's policy towards the older generation. The report stressed the importance of a horizontal approach to policies for older people, the importance of improving the attitude of society and employers towards them and the need to find incentives to help older people better integrate into the labour market.

There are two housing adaptation programmes for people with disabilities, which can also be adapted for older people.

The Lithuanian compulsory health insurance system guarantees universal health care coverage. In accordance with the Law on Health Insurance, persons receiving a social insurance pension granted by the laws of the Republic of Lithuania are covered by compulsory health insurance at state expense. In addition, there are some exceptions that allow older people to receive free medical care. For example, the state reimburses them for the cost of subsidised outpatient medication. The range and scope of medical services provided in the patients' homes is constantly expanding in order to improve the health care of older or disabled people.

The principles and characteristics of social care for children, adults with disabilities, the older generation and people addicted to psychoactive substances, provided by social care institutions, are regulated by the Order of the Minister of Social Security and Labour. Social Care Norms are applied in accordance with the principles of guaranteeing the rights of the person, participation and cooperation, the purpose of choice and social care, the development of personal independence and social integration, non-discrimination.

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 covered¹⁹.

One of the primary objectives of Article 23 is to enable older people to remain full members of society. The expression "full members" means that older persons must suffer no ostracism on account of their age. The right to take part in society's various fields of activity should be granted to everyone active or retired, living in an institution or not.

Article 23 requires States Parties to combat age discrimination in a range of areas other than employment, namely access to goods, facilities and services, health care, education, services such as insurance and banking products, participation in policy-making/civil dialogue, allocation of resources and facilities. An adequate legal framework is therefore a fundamental measure to combat age discrimination in these areas²⁰.

The national legal framework must provide appropriate safeguards to prevent arbitrary deprivation of the autonomous decision-making of older persons, even in cases of reduced decision-making capacity. It must be ensured that the person acting on behalf of older persons interferes as little as possible with their wishes and rights²¹.

¹⁹ Conclusions XIII-3, Statement of Interpretation on Article 4 of the Additional Protocol (Article 23)

²⁰ Conclusions 2009, Andorra

²¹ Conclusions 2013, Statement of Interpretation on Article 23

Article 23 also requires States Parties to take appropriate measures against abuse of older persons. States Parties must therefore take steps to assess the extent of the problem, raise awareness of the need to eradicate abuse and neglect of older persons, and adopt legislative or other measures²².

In the previous assessment, the Committee recommended Lithuania to accept Article 23. On the basis of the information provided, it considers that there are no major obstacles to the acceptance by Lithuania of this provision. It therefore invites the Lithuanian authorities to take the necessary steps to accept Article 23 of the Charter.

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

Situation in Lithuania

In 2019, the absolute poverty rate in Lithuania decreased by 3.4 percentage points, and the at-risk-of-poverty rate by 2.3 percentage points.

In 2019, the at-risk-of-poverty rate in Lithuania stood at 20.6% and, compared to 2018, decreased by 2.3 percentage points. In that year, about 576,000 people in the country were living below the at-risk-of-poverty threshold.

In urban areas, the proportion of people with disposable income below the at-risk-of-poverty line was 17.1% (in five large cities - 14%, in other cities - 22.1%), in rural areas - 27.9%. Compared to 2018, the at-risk-of-poverty rate in urban areas decreased by 1.7 percentage points (in five large cities - increase by 0.2 percentage points, in other cities - decrease by 4.9 percentage points), while in rural areas - decrease by 3.4 percentage points.

In 2019, the at-risk-of-poverty threshold was EUR 379 per month for a single person and EUR 797 per month for a family consisting of two adults and two children under the age of 14. Compared to 2018, due to an increase in the disposable income of the population, the at-risk-of-poverty threshold has increased by 10%.

The highest at-risk-of-poverty rate was among people aged 65 and over. In 2019, the at-risk-of-poverty rate for this group was 31.6% and, compared to 2018, decreased by 6.1 percentage points. During the income survey period (in 2018), the average old-age pension was EUR 311.5 and accounted for 82.2 per cent of the at-risk-of-poverty threshold. For several years, the average old-age pension has been below the risk-of-poverty threshold, although during the income survey period this difference has decreased: the average old-age pension has increased more than the risk-of-poverty threshold.

In 2019, 7.7% of the Lithuanian population (215 000 people) lived below the absolute poverty threshold.

The absolute poverty rate is calculated according to the same methodology as that used for the at-risk-of-poverty rate, with the only difference being the means and amount for establishing the at-risk-of-poverty threshold. The absolute poverty threshold is calculated by applying the methodology for calculating the amount of income necessary to meet the minimum needs of a person (family), approved by Order No. A1-236 of 10 May 2017 of the Minister of Social Security and Labour of the Republic of Lithuania.

In order to reduce social exclusion and the poverty risk and to increase social assistance, the amount of the state supported income (SSI) has been increased. The amount of the SSI is the basic amount used for the calculation of cash social assistance rendered to poor persons (social benefits and compensations covering heating costs, hot and drinking water costs), for the establishment of the right of pupils from low-income families to receive free meals in schools and school supplies, and for

²² Conclusions 2009, Andorra

the establishment of the right to receive free legal assistance, as well as for the calculation of unemployment insurance benefits provided for the unemployed registered with labour exchanges. In 2018, the SSI was increased from EUR 102 to EUR 122.

The government has set itself the goal of reducing poverty, finding new ways to help marginalised groups as much as possible: those who have lost their jobs and income, people with disabilities, carers, single mothers, single pensioners and other members of society who are most in need. To this end, a new supplementary benefit for single people of pensionable age and people with disabilities has been introduced in 2021. These so-called “single person’s benefits” do not discriminate recipients of social security and social assistance pensions.

With regard to health insurance, the State pays compulsory health insurance contributions on behalf of residents belonging to socially vulnerable groups determined by the Law on Health Insurance. In order to improve the protection of low-income people, the state also reimburses the co-payment for subsidised medicines prescribed in the context of outpatient treatment.

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 States 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 assistance²³. 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 strategy²⁴.

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 regions²⁵.

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).

²³ Statement of interpretation on Article 30, Conclusions 2003, see e.g. Conclusions France

²⁴ Conclusions 2005, Slovenia

²⁵ Statement of interpretation on Article 30, Conclusions 2003, see e.g. Conclusions France

In its previous assessment, the Committee recommended Lithuania to accept Article 30. Having examined the report provided by the Lithuanian authorities, the Committee considers that there are no major obstacles to the acceptance by Lithuania of this provision. It therefore invites the Lithuanian authorities to take necessary steps to accept Article 30 of the Charter.

Article 31§3 - Right to housing - Affordable housing

Situation in Lithuania

Under the Law of the Republic of Lithuania on Support for the Acquisition or Rental of Housing of 1 September 2019, the following forms of housing support are provided to persons and families who meet the criteria established in this law:

to acquire :

- a subsidised housing loan provided by the payment of a grant (10% or 20% of the housing loan or the balance of the loan), which can be used to pay part of the mortgage or as a down payment;
- a housing lease or Rent2Buy, which is provided by paying off part of the lease;

to rent :

- social housing;
- reimbursement of housing rental.

Municipalities are encouraged to rent market housing to natural and legal persons and to sublease it to persons (families) waiting for social housing. In addition, the income limits assessed to determine eligibility for social housing have been increased by 20%, and the reimbursement of part of the housing rent - by 60%.

More favourable conditions for reimbursement of part of the rental or lease of a dwelling have been introduced. From 1 July 2020, compensation is paid for a larger usable area of rented accommodation (10-14 m² instead of 8 m²), while taking better account of family composition in determining the compensation rate. In addition, the basic minimum level of reimbursement of part of the rent or lease of the dwelling has been established. This has led to an increase in the level of compensation in 52 of the 60 municipalities.

According to the provisions of the Law of the Republic of Lithuania on Support for the Acquisition or Rental of Housing, as amended on 7 May 2020, municipalities must ensure that the waiting period for social housing does not exceed 5 years from 1 January 2024, 3 years from 1 January 2026. For individuals and families who do not obtain social housing within the set period, municipalities will have to provide compensation from their budgetary funds for the part of the actual rent of a dwelling rented to natural or legal persons (except municipalities).

Further changes to the legal regulation will be introduced in autumn 2021.

Opinion of the Committee

The Committee recalls that Article 31§3 guarantees persons with limited resources an adequate supply of affordable housing.

Housing is affordable if the household can afford to pay the initial costs (deposit, rent advance), the current rent and/or other housing-related costs (e.g. utilities, maintenance and management costs) over the long term while being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located²⁶.

²⁶ Conclusions 2003, Sweden

In order to establish that measures are taken to make the price of housing accessible to those without adequate resources, States Parties must demonstrate not the average affordability ratio required of all housing applicants, but rather that the affordability ratio of the poorest housing applicants is consistent with their level of income²⁷.

All rights under Art. 31§3 must be guaranteed without discrimination, particularly with regard to Roma or Travellers²⁸.

The Committee welcomes the positive developments in ensuring an adequate supply of affordable housing for persons with limited resources in Lithuania, but would need more detailed information to reach a firm opinion on the level of conformity of the situation with Article 31§3 of the Charter. In particular, information would be needed on measures taken to ensure non-discrimination against vulnerable people (such as Roma and Travellers). The Committee encourages the authorities of Lithuania to continue their efforts to improve equal and effective access to affordable housing and to consider the acceptance of Article 31§1 of the Charter.

²⁷ FEANTSA v. Slovenia, Complaint No. 53/2008, decision on the merits of 8 September 2009, § 72

²⁸ International Movement ATD Fourth World v. France, complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 149-155

APPENDIX I

— Lithuania and the European Social Charter —

Signatures, ratifications and accepted provisions

Lithuania ratified the Revised European Social Charter on 29/06/2001. It has accepted 86 of the 98 paragraphs of the Revised Charter.

Lithuania has not yet accepted the system of collective complaints.

The Charter in domestic law

Automatic incorporation into domestic law and superiority of International treaties ratified by the Seimas (Parliament) over national legislation (Article 138 of the Constitution and Article 11 of the Law on Treaties).

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 Lithuania in 2007, in 2013 and in 2016.

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.