



European
Social
Charter

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

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

REPUBLIC OF MOLDOVA

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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.

The Republic of Moldova ratified the Revised European Social Charter on 8 November 2001, accepting 63 of the 98 paragraphs. The following provisions are not yet accepted: Articles 3§4, 4§1, 4§2, 7§5, 7§6, 10§§1-5, 13§4, 14§§1 and 2, 15§3, 18§§1 and 2, 19§§1-6, 19§§9-12, 22, 23, 25, 27§§1 and 3, 30, 31§§1-3 (35 provisions).

The Republic of Moldova 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 between the delegation of the European Committee of Social Rights and representatives of various ministries of the Republic of Moldova in Chisinau, on 21 March 2006, 1 December 2011 and 29 May 2018 respectively.

Following the third meeting, the Committee proceeded to the examination of the situation on the basis of the information provided by the Government during the meeting and in writing. It considered that there were no significant obstacles in law and in practice to the acceptance of Articles 7§5, 10§5, 13§4, 15§3, 18§1, 18§2, 19§2, 19§6, 19§10, 19§11. It also noted that acceptance of Articles 4§1 and 23 might also be considered in the near future, but that some obstacles remain for the acceptance of Articles 25, 30, 19§4c, 19§12, 31§1, 31§2 and 31§3.

In order to apply the procedure for the fourth time in 2021, the Moldovan authorities were invited to provide written information on the not yet accepted provisions of the Charter.

Having examined the written information received from the Government of the Republic of Moldova on 7 June 2021, the European Committee of Social Rights considers that there are no major obstacles to the acceptance of Articles 3§4, 4§2, 7§6, 10§1, 10§2, 10§3, 10§4, 10§5, 14§1, 14§2, 18§1, 19§1, 19§2, 19§3, 19§4a and b, 19§5, 19§6, 19§9, 22, 27§1 and 27§3.

In addition, the Committee considers that the Republic of Moldova could envisage accepting Article 19§10 for reasons of principle. It therefore recommends acceptance of this provision.

The Moldovan authorities declare that they are ready to accept Article 10 of the Charter as regards vocational training for jobseekers, the unemployed and persons in need of additional support in the labour market.

The Committee requires further clarification of the situation in law and practice with respect to Articles 7§5, 13§4, 15§3, 18§2 and 19§11.

The Committee considers that the current legal situation and practice in the Republic of Moldova should be improved to meet the requirements of Articles 4§1, 19§4c, 19§12, 23, 27, 30, 31§1, 31§2 and 31§3.

The Moldovan authorities state that they can accept Article 30 as regards the employment of persons at risk of social exclusion, while the other requirements of this provision are still subject to consultations between the relevant institutions.

The Committee invites the Republic of Moldova 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.

The Committee also encourages the Republic of Moldova to consider accepting the 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 the Republic of Moldova for continued dialogue on the non-accepted provisions.

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

II. EXAMINATION OF THE NON-ACCEPTED PROVISIONS

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

Situation in the Republic of Moldova

The state policy in the field of occupational safety and health is elaborated and re-examined with the consultation of employers and trade unions, taking into account the evolution of international regulations in this field and technical progress.

The coordination of occupational safety and health in the Republic of Moldova is carried out by the Ministry of Health, Labour and Social Protection.

The responsibility to control the application of the provisions of Law no. 186/2008 on Occupational Safety and Health is assigned to the State Labour Inspectorate and is being carried out in compliance with the provisions of Law no. 140-XV of 10.05.2001 on the State Labour Inspectorate.

According to the provisions of art. 9, para. (1) of Law on Occupational Safety and Health, the employer is obliged to ensure the safety and health of workers in all aspects related to the work performed.

Activities to improve the safety and health of workers include the training of managers, specialists and supervisors, as well as raising public awareness of the situation in this area and the results achieved.

In order to ensure compliance with occupational safety and health requirements, the National Labour Inspectorate cooperates with the National Confederation of Employers of the Republic of Moldova, the National Confederation of Trade Unions of Moldova and other relevant institutions. The efforts of the labour inspectors have contributed to the emergence of a noticeable trend

towards compliance by employers with the legal provisions in this area, although there is still an increase in the number of people injured at work.

Article 11 of the Law on Occupational Safety and Health provides for the establishment of the *Protection and Prevention Service*, consisting of one or more workers appointed by the employer to carry out occupational risk protection and prevention activities in the unit. If the resources of the unit in question are not sufficient for the organisation of protection activities due to the lack of specialised personnel, the employer has the right to use external protection and prevention services accredited in accordance with the law. In the case of units where activities without danger of accident or occupational disease are carried out, the head of the unit may assume the duties of the designated worker if he or she has completed training courses in occupational safety and health.

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 purpose¹.

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 workers².

Occupational health services have essentially preventive and advisory functions, which are specialised in occupational medicine³, 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 health⁴. They must be trained, endowed and staffed to identify, measure and prevent work-related stress, aggression and violence⁵.

In its second assessment (2012), the Committee considered that Article 3§4 of the Charter could be accepted by the Republic of Moldova. In the light of the information provided by the Moldovan authorities, it reiterates its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of this provision.

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

Situation in the Republic of Moldova

According to the provisions of art. 128 of the Labour Code No. 154/2003, the wage is any compensation or monetary earnings, paid to the employee by the employer on the basis of the individual labour contract, for the work performed or to be performed.

Art. 129 of the Labour Code establishes the State guarantees on remuneration, which include the minimum wage established by the State, the State wage rates in the budgetary sector, the

¹ Conclusions 2003, Bulgaria

² Conclusions 2013, Ukraine

³ Conclusions 2009, Ukraine

⁴ Conclusions 2003, Bulgaria

⁵ Conclusions 2013, Statement of Interpretation on Article 3§4

guaranteed minimum wage in the real sector, as well as the compensatory increases and bonuses guaranteed by the State and regulated by the legislation in force.

The salary includes the basic wage (tariff wage, official wage), the supplementary wage (increases and bonuses to the basic wage) and other incentive and compensatory payments.

Opinion of the Committee

The Committee recalls that 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 sectors⁶, to branches or jobs not covered by collective agreement, to atypical jobs (assisted employment⁷) and to special regimes or statuses (minimum wage for migrant workers)⁸.

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 activities⁹.

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 amount¹⁰.

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.

As no information was provided with regard to decent remuneration, including the guaranteed minimum wage in the Republic of Moldova, the Committee reiterates its opinion that the current situation constitutes an obstacle to the acceptance of Article 4§1 of the Charter.

Article 4§2 - Right to a fair remuneration: Increased remuneration for overtime work

Situation in the Republic of Moldova

According to the provisions of Art. 157 of the Labour Code, in case of remuneration of work per time unit (with tariff wage or with official wage), overtime (Art. 104), for the first two hours is paid in the size not less than 1.5 of the established wage rate per time unit, and for the following hours - not less than double.

In the case of remuneration of work according to the application of the wage tariff system, a supplement of at least 50 per cent of the tariff wage of the employee in this category, paid per unit of time for the first 2 hours, and in the amount of at least 100 per cent of this tariff wage - for the following hours, and with the application of non-tariff wage systems - of 50 per cent for the first 2 hours and, respectively, 100 per cent of the guaranteed minimum amount of the wage per unit of time in the real sector - for the following hours.

⁶ Conclusions XX-3 (2014), Greece

⁷ Conclusions 2014, France

⁸ Conclusions 2014, Andorra

⁹ Conclusions 2010, Statement of Interpretation on Article 4§1

¹⁰ Conclusions XVI-2 (2003), Denmark

Opinion of the Committee

The Committee recalls that Article 4§2 is inextricably linked to Article 2§1, which guarantees the right to reasonable daily and weekly working hours. Overtime is work performed in addition to normal working hours¹¹.

The principle of this provision is that work performed outside normal working hours, because it requires increased effort on the part of the worker, should be remunerated at a higher rate than normal wages¹².

Granting leave to compensate for overtime (instead of granting an increased remuneration) is in conformity with Article 4§2, provided that this leave is longer than the overtime worked. It is therefore not sufficient to offer employees leave of equal length to the amount of overtime worked¹³.

Mixed systems for compensating overtime, for example where an employee is paid the normal rate for the overtime worked but also receives time in lieu, are not contrary to Article 4§2^{14 15}.

Article 4§2 may be implemented through collective agreements, statutory regulations or other means appropriate to national conditions so long as it applies to all employees.

Taking into account the information provided, the Committee reiterates its opinion that there are no major obstacles for the Republic of Moldova to accept Article 4§2 of the Charter. It therefore invites the Moldovan authorities to consider accepting this provision without delay.

Article 7§5 - Right of children and young persons to protection: Fair pay

Situation in the Republic of Moldova

According to the provisions of Art. 216 of the Labour Code, the employer has the right to conclude an apprenticeship contract with a person who is searching for a job and does not have a professional qualification. The apprenticeship contract concluded in writing is a civil law contract and is regulated by the Civil Code and other normative acts.

The employer has the right to conclude a continuous vocational training contract with any employee of the entity. Such a contract concluded in writing is a supplementary act to the individual employment contract and is governed by labour legislation and other normative acts, containing the norms of labour law.

Apprenticeship contracts and continuous vocational training contracts may also contain other clauses determined by the parties which do not contravene the legislation in force.

According to Art. 219 of the Labour Code, labour legislation, including legislation on occupational safety, is applied to apprentices and employees who have concluded a continuous professional training contract.

¹¹ Conclusions I (1969), Statement of Interpretation on Article 4§2

¹² Conclusions XIV-2, Statement of Interpretation of Article 4§2

¹³ Conclusions XIV-2 (1998), Belgium

¹⁴ European Council of Police Trade Unions (CESP) v. Portugal Complaint No. 60/2010, decision on the merits of 17 October 2011, § 21

¹⁵ Conclusions XX-3 (2014), Slovenia

Opinion of the Committee

The Committee recalls that in application of Article 7§5, domestic law must provide for the right of young workers to a fair wage and of apprentices appropriate allowances. This right may result from statutory law, collective agreements or other means.

The “Fair” or “appropriate” character of the wage is assessed by comparing young workers’ remuneration with the starting wage or minimum wage paid to adults (aged eighteen or above)¹⁶.

In accordance with the methodology adopted under Article 4§1, wages taken into consideration are those after deduction of taxes and social security contributions.

The young worker’s wage may be less than the adult starting wage, but any difference must be reasonable and the gap must close quickly¹⁷. For fifteen/sixteen year-olds, a wage of 30% lower than the adult starting wage is acceptable. For sixteen/eighteen year-olds, the difference may not exceed 20%¹⁸.

The adult reference wage must in all cases be sufficient to comply with Article 4§1 of the Charter. If the reference wage is too low, even a young worker’s wage which respects these percentage differentials is not considered fair¹⁹.

Apprentices may be paid lower wages, since the value of the on-the-job training they receive must be taken into account. However, the apprenticeship system must not be deflected from its purpose and be used to underpay young workers. Accordingly, the terms of apprenticeships should not last too long and, as skills are acquired, the allowance should be gradually increased throughout the contract period, starting from at least one-third of the adult starting wage or minimum wage at the commencement of the apprenticeship, and arriving at least at two-thirds at the end²⁰.

In its previous assessment, the Committee considered that the requirements of Article 7§5 with regard to the legislation were met, but it requested information on the implementation of the legislation in practice in order to assess the situation in the Republic of Moldova. In the absence of information provided by the Moldovan authorities on the implementation of the law, in particular as regards the wages of young workers and allowances for apprentices, the Committee cannot comment on whether the Republic of Moldova is ready to accept Article 7§5 of the Charter.

Article 7 § 6 – Right of children and young persons to protection: Inclusion of time spent on vocational training in the normal working time

Situation in the Republic of Moldova

According to Art. 218 para. (2) of the Labour Code, the time necessary for the apprentice to participate in theoretical activities, related to the vocational training, is included in the working time.

According to Art. 173 letter c) of the Labour Code, in addition to the general guarantees and compensations provided for by this code (guarantees of employment, transfer, salary, etc.), employees benefit from guarantees and compensations in case of combination of work and studies.

¹⁶ Conclusions XI-1 (1991), United-Kingdom

¹⁷ Conclusions II (1971), Statement of Interpretation on Article 7§5

¹⁸ Conclusions 2006, Albania

¹⁹ Conclusions XII-2 (1992), Malta

²⁰ Conclusions 2006, Portugal

Opinion of the Committee

The Committee recalls that in application of Article 7§6, time spent on vocational training by young people during normal working hours must be treated as part of the working day²¹. Such training must, in principle, be done with the employer's consent - but not necessarily financed by the latter and be related to the young person's work.

Training time must thus be remunerated as normal working time, and there must be no obligation to make up for the time spent in training, which would effectively increase the total number of hours worked²².

On the basis of the information at its disposal, the Committee reiterates its opinion expressed in its first report on non-accepted provisions that there are no major obstacles to the acceptance by the Republic of Moldova of Article 7§6 of the Charter.

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

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the measures taken to ensure access to higher technical and university education.

However, in their submission, the Moldovan authorities note in general that the provisions of Article 10 concerning vocational training for jobseekers, unemployed persons, and persons requiring additional support on the labour market can be accepted for ratification.

Opinion of the Committee

The Committee recalls that the right to vocational training must be guaranteed to everyone²³. 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 profession²⁴.

Equal treatment with respect to access to vocational training must be guaranteed to non-nationals²⁵.

In its second assessment (2012), the Committee considered that Article 10§1 could be accepted by the Republic of Moldova. Having received no new information, it understands that the situation has remained unchanged and therefore reiterates its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 10§1 of the Charter.

²¹ Conclusions XV-2 (2001), Netherlands

²² Conclusions V (1977), Statement of Interpretation on Article 7§6

²³ Conclusions I (1969), Statement of Interpretation on Article 10§1

²⁴ Conclusions 2003, France

²⁵ Conclusions XIV-2 (1998), Statement of Interpretation on Article 10§1

Article 10 § 2 – Right to vocational training: Apprenticeship

Situation in Moldova

According to the information provided under Article 7§5 of the Charter, the employer has the right to conclude an apprenticeship contract with a person who is searching for a job and does not have a professional qualification (Art. 216 of the Labour Code). The apprenticeship contract concluded in writing is a civil law contract and is regulated by the Civil Code and other normative acts. No additional information is provided.

In their submission, the Moldovan authorities note that in general, the provisions of Article 10 concerning vocational training for jobseekers, unemployed persons, and persons requiring additional support on the labour market can be accepted for ratification.

Opinion of the Committee

The Committee recalls that according to Article 10§2, young people have the right to access to apprenticeship and other training arrangements. Apprenticeship can mean training based on a contract of employment between the employer and the apprentice and leading to vocational education²⁶, whereas other training arrangements may consist of school-based vocational training^{27 28}. They both must combine theoretical and practical training and close ties must be maintained between training establishments and the working world.

Apprenticeship is assessed on the basis of the following elements: length of the apprenticeship and division of time between practical and theoretical learning; selection of apprentices; selection and training of trainers; termination of the apprenticeship contract²⁹

Equal treatment with respect to access to apprenticeship and other training arrangements must be guaranteed to non-nationals on the basis of the conditions mentioned under paragraph 1³⁰.

In its first assessment (2006), the Committee considered that the legislation on the apprenticeship contract was sufficient for the purposes of Article 10§2 and concluded that this provision could be accepted by the Republic of Moldova. Having received no new information, it understands that the situation has remained unchanged and therefore reiterates its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 10§2 of the Charter.

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

Situation in the Republic of Moldova

According to the information provided under Article 7§5 of the Charter, the employer has the right to conclude a continuous vocational training contract with any employee of the entity. Such a contract concluded in writing is a supplementary act to the individual employment contract and is governed by labour legislation and other normative acts, containing the norms of labour law. No additional information is provided.

In their submission, the Moldovan authorities note that in general, the provisions of Article 10 concerning vocational training for jobseekers, unemployed persons, and persons requiring additional support on the labour market can be accepted for ratification.

²⁶ Conclusions XIX-1 (2008), Slovak Republic

²⁷ Conclusions XIV-2 (1998), Statement of Interpretation on Article 10§2

²⁸ Conclusions 2003, Sweden

²⁹ Conclusions XVI-2 (2003), Malta

³⁰ Conclusions 2003, Slovenia

Opinion of the Committee

The Committee recalls that 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 education³¹.

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.

In its second assessment (2012), the Committee considered that Article 10§3 could be accepted by the Republic of Moldova. Having received no new information, it understands that the situation has remained unchanged and therefore reiterates its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 10§3 of the Charter.

Article 10 § 4 – Right to vocational training: Long term unemployed persons

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the retraining and reintegration measures taken to fight long-term unemployment.

However, in their submission, the Moldovan authorities note in general that the provisions of Article 10 concerning vocational training for jobseekers, unemployed persons, and persons requiring additional support on the labour market can be accepted for ratification.

Opinion of the Committee

The Committee recalls that in accordance with Article 10§4, States Parties must fight long-term unemployment through retraining and reintegration measures. A person who has been without work for 12 months or more is long-term unemployed³².

The main indicators of compliance with this provision are the types of training and retraining measures available on the labour market, the number of persons in this type of training, the special attention given to young long-term unemployed, and the impact of the measures on reducing long-term unemployment.

Equal treatment with respect to access to training and retraining for long-term unemployed persons must be guaranteed to non-nationals on the basis of the conditions mentioned under paragraph 1.

In its second assessment (2012), the Committee considered that Article 10§4 could be accepted by the Republic of Moldova. Having received no new information, it understands that the situation has remained unchanged and therefore reiterates its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 10§4 of the Charter.

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

Situation in the Republic of Moldova

Access to vocational training for jobseekers, unemployed persons, persons who need additional support in the labour market, including young people, is made in accordance with the provisions

³¹ Conclusions XIV-2 (1998), Statement of Interpretation on Article 10§3

³² Conclusions 2003, Italy

of Law No. 105/2018 on the Promotion of Employment and Unemployment Insurance, which aims to prevent and reduce unemployment and its social effects, to ensure a high level of employment and adaptation of the workforce to the requirements of the labour market.

Thus, the law provides for several forms of vocational training for the unemployed through qualification, retraining, in-depth training and specialisation courses; on-the-job training for the unemployed without qualifications; vocational training for the unemployed without work experience, especially young people; and certification of knowledge and skills acquired in non-formal and informal educational settings. These measures aim to increase the employment chances of the unemployed and are also a solution to improve the gaps between supply and demand in the labour market.

During the period when the unemployed are attending vocational requalification training courses, their expenses are covered as follows: training, accommodation (in the proportion of 20% of the national average monthly wage of the previous year, for each month's rent) and transport, when the unemployed have to travel to another locality to participate in the training. Unemployed people who attend training courses also benefit from a scholarship.

The Moldovan authorities consider that the provisions of Article 10 of the European Social Charter concerning vocational training for jobseekers, the unemployed and persons in need of additional support in the labour market can be accepted for ratification.

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 adequate³³.

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 process³⁴.

Taking into account the information provided, the Committee reiterates its opinion that there are no major obstacles for the Republic of Moldova to accept Article 10§5 of the Charter. It welcomes the readiness of the Moldovan authorities to accept the provisions related to vocational training. It therefore calls on the Republic of Moldova to accept this provision and Article 10 of the Charter as a whole without delay.

³³ Conclusion XVI-2 (2004), Slovak Republic

³⁴ Conclusions XIV-2 (1998), United Kingdom

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

Situation in the Republic of Moldova

While the authorities present the social assistance system in the Republic of Moldova in general, no information is provided on specific emergency assistance for non-residents.

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^{35 36}.

States Parties are required to provide non-resident foreigners legally presents without resources 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 systems³⁷.

Emergency social assistance should be supported by a right to appeal to an independent body. This right must also be effective in practice^{38 39}.

In its previous assessment, the Committee considered that there were no obstacles to the acceptance of Article 13§4 by the Republic of Moldova. However, it requested more information on the implementation of the emergency social assistance (such as shelter, food and clothing) available to non-resident foreign nationals, lawfully present on the territory of the Republic of Moldova and without resources. As no reply was provided by the Moldovan authorities, the Committee cannot comment on the possibility of accepting Article 13§4 by the Republic of Moldova.

Article 14 § 1 – Right to benefit from social services: Promotion or provision of social services

Situation in the Republic of Moldova

According to the legislation in force, social welfare services are classified into three types: primary social welfare services, specialised social welfare services, and highly specialised social welfare services.

Primary social welfare services aim to prevent or limit situations of difficulty that may lead to marginalisation or social exclusion. They consist of:

- Community Social Assistance Service which is the national network of professional social workers who intervene at community level to prevent and overcome difficult situations. In 2019, 1114 units of community social workers were employed across the country, of which 1,072 units were occupied by women.
- Home Social Care Service which provides social care services to the older and persons with disabilities. In 2019, 17136 beneficiaries received services provided by the home social care service, of which 17040 received free services and 96 paid services.

³⁵ Conclusions XIV-1 (1998), Statement of Interpretation on Article 13§4

³⁶ Conclusions VII (1981), Statement of Interpretation on Article 13§4

³⁷ Conclusions XIII-4 (1996), Statement of Interpretation on Article 13

³⁸ Conference of European Churches (CEC) v. the Netherlands Complaint No. 90/2013, decision on the merits of 1 July 2014, §106.

³⁹ European Federation of national organisations working with the Homeless (FEANSA) v. the Netherlands, decision on the merits of 2 July 2014, §187

- Food service in social assistance canteens, established by the local public administration authorities, for people of pensionable age (homeless, without legal support, with no income or low income), people with disabilities and children up to 18 years of age (from large families, single parents and other socially vulnerable families). In 2019, a total of 67 social assistance canteens operated, 19 in urban areas and 48 in rural areas. Approximately 13258 people benefited from the canteen services, 2729 of them at home.

Specialised social welfare services involve the training of several specialists and aim to maintain, rehabilitate and develop the individual capacities of the beneficiaries to overcome a difficult situation in which they/their families find themselves. They includes: day care centres, temporary foster home, long-term foster homes, multifunctional community centres, night shelter service for homeless people, regional social centres for assistance to people infected with HIV/AIDS and their family members, integrated social service for psychoactive substance users and patients undergoing substitution treatment, the social monetary support service for disadvantaged individuals/families.

Highly specialised social welfare services are usually provided within specialised institutions. They offer complex or combined services to improve the quality of life of beneficiaries who are more dependent and require continuous supervision. These services are in high demand and very expensive.

In order to streamline social assistance measures, to ensure access of vulnerable groups to quality social services and to support local public administration authorities in the provision of social assistance measures, amendments were made in 2017 to Law No. 827/2000 on the Republican Fund and on local funds for social support of the population. This fund is used to finance special purpose programmes in the field of social assistance, to finance social services included in the package established by the government, and to finance social assistance canteens.

Opinion of the Committee

The Committee recalls that the right to benefit from social welfare services provided for by Article 14§1 requires Parties to set up a network of social services to help people to reach or maintain well-being and to overcome any problems of social adjustment⁴⁰.

The right to social services must be guaranteed in law and in practice. Social services must have resources matching their responsibilities and the changing needs of users.

Persons applying for social welfare services should receive any necessary advice and counselling enabling them to benefit from the available services in accordance with their needs⁴¹

Article 14 provides for an individual right subject to an effective right of appeal⁴².

In its second assessment (2012), the Committee considered that Article 14§1 could be accepted by the Republic of Moldova. Given the additional information provided, the Committee reiterates its opinion that there are no major obstacles for the Republic of Moldova to accept Article 14§1 of the Charter.

⁴⁰ Conclusions 2005, Bulgaria

⁴¹ Conclusions 2009, Statement of Interpretation on Article 14§1

⁴² International Federation for Human Rights (FIDH) v. Belgium, complaint No. 75/2011, decision on the merits of 18 March 2013

Article 14 § 2 – Right to benefit from social services: Public participation in the establishment and maintenance of social services

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the measures taken to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of social services.

Opinion of the Committee

The Committee recalls that Article 14§2 requires States Parties to provide support for voluntary associations seeking to establish social welfare services⁴³.

Article 14§2 also requires States Parties to encourage individuals and organisations to play a part in maintaining services, for example by taking action to strengthen the dialogue with civil society in areas of welfare policy which affect the social welfare services. This includes action to promote representation of specific user-groups in bodies where the public authorities are also represented, and action to promote consultation of users on questions concerning organisation of the various social services and the aid they provide⁴⁴.

In its second assessment (2012), the Committee considered that Article 14§2 could be accepted by the Republic of Moldova. Having received no new information, it understands that the situation has remained unchanged and therefore reiterates its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 14§2 of the Charter.

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

Situation in the Republic of Moldova

The authorities remind that the Republic of Moldova ratified in 2010 the UN Convention on the Rights of Persons with Disabilities by Law No. 166-XVIII. They also remind the National Program for Social Inclusion of Persons with Disabilities 2017-2022, which was approved on 8 September 2017, as referred to in the third report on the non-accepted provisions.

Opinion of the Committee

The right of persons with disabilities to social integration provided for by Article 15§3 implies that barriers to communication and mobility be removed in order to enable access to transport, housing, cultural activities and leisure⁴⁵.

People with disabilities should have a voice in the design, implementation and review of the policy that affects them⁴⁶.

In its previous assessment, the Committee considered that there were no significant legal obstacles to the acceptance of Article 15§3 by the Republic of Moldova. However, it requested further information on a number of issues, such as whether all relevant integration sectors (housing, telecommunications, transport, leisure and cultural activities) are effectively covered by anti-discrimination legislation, whether barriers to integration are assessed, and what measures are taken in terms of financial and technical support to ensure access for people with disabilities

⁴³ Conclusions 2005, Statement of Interpretation on Article 14§2

⁴⁴ Conclusions 2005, Bulgaria

⁴⁵ Conclusions 2005, Norway

⁴⁶ Conclusions 2003, Italy

in all areas of social life. Indeed, in order to assess the extent to which the effective exercise of the right to independence, social integration and participation in the life of the community of persons with disabilities is ensured, information on the situation in practice with regard to the implementation of the legal framework is essential.

As no reply was provided by the Moldovan authorities, the Committee cannot comment on the possibility of accepting Article 15§3 by the Republic of Moldova.

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

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the implementation of existing regulations in a spirit of liberality.

Opinion of the Committee

The Committee recalls that Article 18 applies to employees and the self-employed who are nationals of States which are party to the Charter. It also covers members of their family allowed into the country for the purposes of family reunion⁴⁷. It relates not only to workers already on the territory of the State concerned, but also to workers outside the country applying for a permit to work on the territory⁴⁸.

The assessment of the degree of liberality used in applying existing regulations is based on figures showing the refusal rates for work permits. To this end, the figures supplied must be broken down by country and must also distinguish between first-time applications and renewal applications⁴⁹.

In its previous assessment, the Committee considered that the Republic of Moldova could accept Article 18§1 of the Charter. Having received no new information, it understands that the situation has remained unchanged and therefore reiterates its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 18§1 of the Charter.

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

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the measures taken to simplify existing formalities and to reduce dues and taxes for foreign workers.

Opinion of the Committee

Formalities and dues and other charges are one of the aspects of regulations governing the employment of workers. The Committee recalls that according to Article 18§2, workers must have the possibility of completing such formalities in the country of destination as well as in the country of origin⁵⁰ and obtaining the residence and work permits at the same time and through a single application⁵¹. The required documents (residence/work permits) must be delivered within a reasonable time⁵².

⁴⁷ Conclusions X-2 (1990), Austria

⁴⁸ Conclusions XIII-1 (1993), Sweden

⁴⁹ Conclusions XVII-2 (2005), Spain

⁵⁰ Conclusions XVII-2, Finland

⁵¹ Conclusions XVII-2, Germany

⁵² Conclusions XVII-2, Portugal

Chancery dues and other charges for the permits in question must not be excessive⁵³ and, in any event, must not exceed the administrative cost incurred in issuing them⁵⁴. State must, first of all, not set an excessively high level for the dues and charges in question that is a level likely to prevent or discourage foreign workers from seeking to engage in a gainful occupation, and employers from seeking to employ foreign workers. They should made concrete efforts to progressively reduce their level⁵⁵.

In its previous assessment, the Committee considered that the applicable procedure seemed to comply with the Charter and thus there were no obstacles to the acceptance of Article 18§2 by the Republic of Moldova. However, it required further information with regard to the level of fees in respect of foreigners wishing to access the labour market as self-employed. The lack of information on this issue prevents it from assessing the situation in the Republic of Moldova.

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

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the mesures taken to guarantee the right to free information and assistance to migrants.

Opinion of the Committee

The Committee recalls that Article 19§1 guarantees the right to free information and assistance to nationals wishing to emigrate and to nationals of other States Parties who wish to immigrate⁵⁶.

Another obligation under this provision is that States Parties must take measures to prevent misleading propaganda relating to immigration and emigration^{57 58}.

States Parties must also take measures to raise awareness amongst law enforcement officials, such as awareness training of officials who are in first contact with migrants.

In its second assessment (2012), the Committee considered that Article 19§1 could be accepted by the Republic of Moldova. Having received no new information, it understands that the situation has remained unchanged and therefore reiterates its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 19§1 of the Charter.

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

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on special measures taken for migrant workers to facilitate their departure, journey and reception.

⁵³ Conclusions 2012, Ireland

⁵⁴ Conclusions 2012, Armenia

⁵⁵ Conclusions 2012, Statement of Interpretation of Article 18§2

⁵⁶ Conclusions I (1969), Statement of Interpretation on Article 19§1

⁵⁷ Conclusions XIV-1 (1998), Greece

⁵⁸ Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §§138-140

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 reception⁵⁹.

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 measures⁶⁰. Reception means the period of weeks which follows immediately from their arrival, during which migrant workers and their families most often find themselves in situations of particular difficulty⁶¹.

In its previous assessment, the Committee considered that there were no major obstacles to the acceptance of Article 19§2. Having received no new information, it understands that the situation has remained unchanged and therefore reiterates this opinion.

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

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on co-operation between the social services of the emigration and immigration states.

Opinion of the Committee

The Committee recalls that the scope of Article 19§3 extends to migrant workers immigrating as well as migrant workers emigrating to the territory of any other State. Contacts and information exchanges should be established between public and/or private social services in emigration and immigration countries, with a view to facilitating the life of emigrants and their families, their adjustment to the new environment and their relations with members of their families who remain in their country of origin⁶².

In its second assessment (2012), the Committee considered that the Republic of Moldova could accept Article 19§3 of the Charter. Having received no new information, it understands that the situation has remained unchanged and therefore reiterates its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 19§3 of the Charter.

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

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the measures taken to guarantee non-discrimination of migrant workers regarding employment, right to organise and accommodation.

Opinion of the Committee

The Committee recalls that 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

⁵⁹ Conclusions III (1973), Cyprus

⁶⁰ Conclusions IV (1975), Germany

⁶¹ Conclusions IV (1975), Statement of interpretation on Article 19§2

⁶² Conclusions XIV-1 (1998), Belgium

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^{63 64}, and should inform of any practical measures taken to remedy cases of discrimination.

In its second assessment (2012), the Committee considered that the Republic of Moldova could accept Article 19§4a and b, but the requirements of Article 19§4c were not satisfied. This opinion was confirmed in the previous assessment of the Committee. It considered that some further developments/measures are needed in order to ensure that no legal or de facto restrictions on home-buying, access to subsidised housing or housing aids, such as loans or other allowances exist for migrant workers. In the absence of additional information on conditions for accommodation of migrant workers, the Committee considers that the situation in the Republic of Moldova constitute an obstacle to the acceptance of Article 19§4c of the Charter. It reiterates its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 19§4a and b.

Article 19§5 - Right of migrant workers and their families to protection and assistance : Equality regarding taxes and contributions

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the measures taken to ensure the right of migrant workers to equal treatment with regard to taxes and contributions.

Opinion of the Committee

The Committee recalls that Article 19§5 recognises the right of migrant workers to equal treatment in law and in practice in respect of the payment of employment taxes, dues or contributions^{65 66}.

In its second assessment (2012), the Committee considered that Article 19§5 could be accepted by the Republic of Moldova. Having received no new information, it understands that the situation has remained unchanged and therefore reiterates its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 19§5 of the Charter.

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

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the measures taken to enable migrant workers to benefit from family reunion.

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,

⁶³ Conclusions III (1973), Italy

⁶⁴ European Federation of national organisations working with the Homeless (FEANSA) v. the Netherlands, decision on the merits of 2 July 2014, §§ 202-203

⁶⁵ Conclusions II (1971), Norway

⁶⁶ Conclusions XIX-4 (2011), Greece

language and/or integration tests, independent right to stay and effective remedy (mechanism of appeal or review)⁶⁷.

In its previous assessment, the Committee considered that there were no obstacles to the acceptance of Article 19§6 by the Republic of Moldova. Having received no new information, it understands that the situation has remained unchanged and therefore reiterates this opinion.

Article 19§9 - Right of migrant workers and their families to protection and assistance : Transfer of earnings and savings

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the right of migrants to transfer earnings and savings.

Opinion of the Committee

The Committee recalls that Article 19§9 obliges States Parties not to place excessive restrictions on the right of migrants to transfer earnings and savings, either during their stay or when they leave their host country⁶⁸. Migrants must be allowed to transfer money to their own country or any other country. The right to transfer earnings and savings includes the right to transfer movable property⁶⁹.

In its second assessment (2012), the Committee considered that Article 19§9 could be accepted by the Republic of Moldova. Having received no new information, it understands that the situation has remained unchanged and therefore reiterates its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of Article 19§9 of the Charter.

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

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the right to equal treatment of self-employed migrant workers and their families.

Opinion of the Committee

The Committee recalls that Article 19§10 requires States to ensure that the rights provided for in paragraphs 1 to 9, 11 and 12 are extended to self-employed migrant workers and their families⁷⁰. A finding of non-conformity under these paragraphs may lead to a finding of non-conformity under paragraph 10.

States Parties must ensure that there is no unjustified treatment which amounts to discrimination, in law or in practice, between wage-earners and self-employed migrants. In addition, equal treatment between self-employed migrants and self-employed nationals must be guaranteed in the areas covered by this provision.

In its second assessment (2012), the Committee considered that, as there was otherwise no unjustified treatment in law and practice amounting to discrimination between employees and self-employed migrants or between self-employed migrants and self-employed nationals, the Republic

⁶⁷ See <https://rm.coe.int/digest-2018-parts-i-ii-iii-iv-en/1680939f80>, pp. 183-185

⁶⁸ Conclusions XIII-1 (1993), Greece

⁶⁹ Conclusions 2011, Statement of Interpretation on Article 19§9

⁷⁰ Conclusions I (1969), Norway

of Moldova could consider accepting Article 19§10 for reasons of principle. It accordingly recommended its acceptance.

Having received no new information, the Committee understands that the situation has remained unchanged and therefore reiterates its recommendation.

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

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the measures taken to teach the Moldovan/Romanian language to migrants.

Opinion of the Committee

The Committee recalls that under this provision, States Parties should promote and facilitate the teaching of the national language to children of school age, as well as to the migrants themselves and to members of their families who are no longer of school age⁷¹. The teaching of the national language of the receiving state is the main means by which migrants and their families can integrate into the world of work and society at large. A requirement to pay substantial fees is not in conformity with the Charter. States Parties are required to provide national language classes free of charge, otherwise for many migrants such classes would not be accessible⁷².

In its second assessment (2012), the Committee considered that there were no major obstacles to acceptance by the Republic of Moldova of Article 19§11. However, it required more detailed information on the situation of adult family members and the extent to which language training for this group is provided/the costs incurred. The lack of information on this issue prevents the Committee from assessing the situation in the Republic of Moldova.

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

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the measures taken to teach the mother tongue to migrants.

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^{73 74}.

In its previous assessment, the Committee took note of the existence of summer camps for teaching the mother tongue of migrants with the support of NGOs. It considered that some obstacles remained for the acceptance of Article 19§12 and encouraged the Government to pursue their efforts and to continue considering the acceptance of this provision in the near future. As no new information has been provided by the Moldovan authorities on this issue, the Committee reiterates its opinion that the situation in the Republic of Moldova constitutes an obstacle to the acceptance of Article 19§12 of the Charter.

⁷¹ Conclusions 2002, France

⁷² Conclusions 2011, Norway

⁷³ Conclusions 2002, Italy

⁷⁴ Conclusions 2011, Armenia

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

Situation in the Republic of Moldova

In accordance with the provisions of Law No. 140/2001 on the National Labour Inspectorate, the National Labour Inspectorate exercises state control over compliance with legislative and other normative acts in the field of labour, safety and health at work, in enterprises, institutions and organisations, regardless of their type of ownership and legal form of organisation, natural persons employing workers, as well as in the central and local public administration.

State control over persons engaged in entrepreneurial activity is planned, carried out and registered in accordance with the provisions of Law No. 131/2012 on State control over entrepreneurial activity in the part not covered by Law No. 140/2001.

According to Article 10 of Law No. 186/2008, within the framework of its responsibilities, the employer is bound to take the necessary measures for the protection of the safety and health of workers, including the prevention of occupational risks, the provision of information and training, as well as the provision of the necessary organisation and means.

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 practice⁷⁵ 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 respected⁷⁶. There must also be sanctions for employers which fail to fulfil their obligations under Article 22⁷⁷.

In its second assessment (2012), the Committee considered that Article 22 of the Charter could be accepted by the Republic of Moldova. Taking also note of the information provided by the Moldovan authorities, it reiterates its opinion that there are no major obstacles to the acceptance by the Republic of Moldova of this provision. Further information would be needed on the legal remedies available to workers when their rights are not respected and on the sanctions imposed on employers who do not fulfil their obligations under Article 22 of the Charter.

Article 23 – Right of the elderly to social protection

Situation in the Republic of Moldova

In the public social insurance system of the Republic of Moldova, the social insurance contribution is not only a compulsory payment, but also a priority condition for granting the right to benefits and determining its amount.

Every person, regardless of age, position, nature of work, is entitled to social insurance benefits, including pensions, if they have contributed to the public social insurance system. Older people who continue to work are insured for all benefits offered by the public social insurance system (temporary

⁷⁵ Conclusions 2005, Estonia

⁷⁶ Conclusions 2003, Bulgaria

⁷⁷ Conclusions 2003, Slovenia

incapacity benefit, industrial accidents, etc.). People who receive pensions can combine wage income with pensions without any deduction, reduction or additional taxation of the latter.

In order to increase the amount of pensions, the following measures have been taken: annual indexation of pensions (on 1 April 2020 - with the indexation coefficient of 4.83% and on 1 October - 1.07%), reconsideration of pensions for people who continue to work after having fulfilled the right to an old-age pension (on 1 July 2020 - for pensioners who have asserted their right to an old-age pension after 1 January 1999 and continue to work after this right has been confirmed by a 10-year probation period). At the same time, the granting of the right to compensation in the event of the death of one of the spouses to the surviving spouse if the deceased spouse received an old-age pension less than 5 years after the establishment of the right to the pension has been regulated as of 1 January 2020.

The way to inform the population, especially the older in rural areas, about social security is to provide legal advice by specialists of the Territorial Social Insurance Houses (TSIH), which are responsible for direct interaction with the population in the field of public social insurance (pensions, benefits).

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 covered⁷⁸.

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 areas⁷⁹.

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 rights⁸⁰.

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 measures⁸¹.

The Committee takes note of the information provided by the Moldovan authorities with regard to the public social insurance system. It recalls that in its previous assessment it requested several pieces of information on the specific requirements of Article 23 of the Charter:

⁷⁸ Conclusions XIII-3, Statement of Interpretation on Article 4 of the Additional Protocol (Article 23)

⁷⁹ Conclusions 2009, Andorra

⁸⁰ Conclusions 2013, Statement of Interpretation on Article 23

⁸¹ Conclusions 2009, Andorra

- whether anti-discrimination legislation effectively covers non-discrimination on grounds of age in access to goods and services, either explicitly in the law or through its interpretation in the case-law, thus ensuring also the existence of effective remedies;
- whether there are appropriate safeguards against older persons abuse and arbitrary interference and deprivation of autonomous decision making in case of reduced capacity;
- additional information on services and facilities for older people, in order to assess whether these services are sufficiently numerous, qualitatively adequate, affordable and accessible, and whether there are effective remedies for complaints in this respect;
- information on older people living in institutions (to determine whether they are receiving appropriate care and services, whether the supply of affordable care is sufficient and whether the quality of services is monitored);
- information regarding older people living at home (on housing and health care arrangements to enable them to continue living at home for as long as possible).

As the Moldovan authorities did not respond to this request for additional information, the Committee reiterates its opinion that the situation in the Republic of Moldova constitutes an obstacle to the acceptance of Article 23 of the Charter.

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

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the measures taken to guarantee the right of workers to protection of their claims in the event of the insolvency of their employer.

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 workers⁸². Guarantees must exist for workers that their claims will be satisfied in such cases⁸³. The protection should also apply in situations where the employer's assets are recognised as insufficient to justify the opening of formal insolvency proceedings⁸⁴.

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 occurred⁸⁵.

As the Moldovan authorities have not provided any information on the development of legislation and practice in the context of the requirements of Article 25 of the Charter, the Committee reiterates its opinion that certain obstacles remain to the acceptance of this provision by the Republic of Moldova.

⁸² Conclusions 2003, France

⁸³ Conclusion 2012, Ireland

⁸⁴ Conclusions 2008, Slovenia

⁸⁵ Conclusions 2012, Slovakia

Article 27§1 - Right of workers with family responsibilities to equal opportunity and treatment: Participation in working life

Situation in the Republic of Moldova

During the period of social leave provided for by labour legislation, i.e. maternity leave, partial paid leave for the care of children up to the age of three, and paternity leave, insured persons are entitled to the corresponding social insurance benefits: maternity allowance, child-rearing allowance for children up to the age of three, childcare allowance for sick children, and paternity allowance.

The benefit and its amount depend on the length of the contribution period and the amount of income on which social security contributions have been paid, as set out in the relevant legal framework.

According to the provisions of Art. 97 of the Labour Code, the employer may employ employees by partial working day or partial working week (part-time), the specific duration of the part-time work being written into the individual employment contract, in accordance with the provisions of Art. 49 para. (1), letter I.

Part-time work can also be established after the conclusion of the individual employment contract, with the agreement of both parties. At the request of a pregnant woman, an employee who has children under 10 years of age or disabled children (including those under his or her guardianship), or an employee who is caring for a sick family member in accordance with a medical certificate, the employer is obliged to set up a partial working day or week for them.

According to Article 100 of the Labour Code, flexible working hours are established by the employer in agreement with the employee, at his/her request, if this possibility is provided for in the collective labour contract, in the internal regulations of the unit or in another normative act at unit level. The conditions of working under flexible working hours are laid down in the individual employment contract.

Chapter IX of the Labour Code provides rules for remote work. According to Art. 292 of the Labour Code, the remote worker shall enjoy all the rights and guarantees provided for by law, the collective labour contract, the individual labour contract or any other normative act at unit level applicable to workers whose work is organised by the employer. The employer organises the occupational safety and health of employees working remotely in accordance with the provisions of Law No. 188/2008 on Occupational Safety and Health, as well as other normative acts in the field of occupational safety and health.

In addition to maternity leave and partial paid leave for the care of a child up to the age of 3, the woman, as well as the father of the child, or another parent directly involved in the care of the child, as well as the guardian, are granted, on the basis of a written request, additional unpaid leave for the care of a child aged 3 to 4, while retaining their job (function). In the event that the previous job (function) no longer exists, the persons mentioned are granted another equivalent job (equivalent function).

In case of equal qualification and productivity of work, employees with family obligations, who support two or more persons and/or a person with disabilities, and employees in whose family there are no other persons with an income of their own, have a preferential right to work in case of downsizing or reduction of personnel.

Under the provisions of Art. 252 of the Labour Code, a parent (guardian, curator) who raises a child with disabilities is granted, upon written request, one additional day of leave per month, with maintenance of the average salary on the employer's account.

Opinion of the Committee

The Committee recalls that under Article 27§1a of the Charter, States Parties should provide people with family responsibilities with equal opportunities in respect of entering, remaining and re-entering employment since these persons may face difficulties on the labour market due to their family responsibilities.

Therefore, States Parties must take measures to ensure that workers with family responsibilities are not discriminated against on the basis of those responsibilities and to assist them to remain in, enter and re-enter the labour market, in particular through vocational guidance, training and retraining⁸⁶.

The aim of Article 27§1b is to take into account the needs of workers with family responsibilities in terms of conditions of employment and social security.

Measures need to be taken concerning the length and organisation of working time. Furthermore, workers with family responsibilities should be allowed to work part-time or to return to full-time employment⁸⁷. These measures should apply equally to men and women⁸⁸. The type of measures cannot be defined unilaterally by the employer but should be provided by a binding text (legislation or collective agreement).

Periods of unemployment due to family responsibilities should be taken into account in the calculation of pension schemes or in the determination of pension rights.

The aim of Article 27§1c is to develop or promote services, in particular child day care services and other childcare arrangements, available and accessible to workers with family responsibilities⁸⁹. Parents should be allowed to reduce or cease work because of the serious illness of a child⁹⁰.

In its second assessment (2012), the Committee considered that from the point of view of the situation in law and in practice there were no major obstacles for the Republic of Moldova to accept Article 27§1 of the Charter. Taking also note of the information provided by the Moldovan authorities, the Committee reiterates this opinion and encourages the Republic of Moldova to accept this provision.

Article 27§3 - Right of workers with family responsibilities to equal opportunity and treatment: Illegality of dismissal on the ground of family responsibilities

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the measures taken to ensure that family responsibilities are not a valid reason for dismissal.

Opinion of the Committee

The Committee recalls that family responsibilities must not be a valid reason for dismissal. The notion of "family responsibilities" should be understood here as obligations towards dependent children and also towards other close family members who need care and support. Article 27§3 aims to prevent these obligations from restricting preparation for and access to working life, the exercise of a professional activity and career progression⁹¹.

⁸⁶ Conclusions 2005, Estonia

⁸⁷ Conclusions 2005, Statement of Interpretation on Article 27§1b

⁸⁸ Conclusions 2005, Lithuania

⁸⁹ Conclusions 2005, Statement of Interpretation on Article 27§1c

⁹⁰ Conclusions 2005, Italy

⁹¹ Conclusions 2003, Statement of Interpretation on Article 27§3; see for example Bulgaria

Workers dismissed on such unlawful grounds must be afforded the same level of protection as that afforded in other cases of discriminatory dismissal under Article 1§2 of the Charter, which Austria has accepted.

Any ceiling on compensation that might prevent the damages from being proportionate to the harm suffered and sufficiently dissuasive is prohibited. In the event of a ceiling on compensation for pecuniary damage, the victim must be able to claim unlimited compensation for non-pecuniary damage through other legal means (e.g. anti-discrimination legislation), and the courts competent to award compensation for pecuniary and non-pecuniary damage must decide within a reasonable time⁹².

In its second assessment (2012), the Committee considered that from the point of view of the situation in law and in practice there were no major obstacles for the Republic of Moldova to accept Article 27§3 of the Charter. Having received no new information from the Moldovan authorities, the Committee understands that the situation has remained unchanged and therefore reiterates its opinion that there are no major obstacles to the Republic of Moldova accepting Article 27§3 of the Charter.

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

Situation in the Republic of Moldova

In order to ensure the integration into the labour market of persons in difficult situations, including categories of persons at risk of social exclusion, in accordance with the provisions of Law No. 105/2018 on the promotion of employment and unemployment insurance, these persons may benefit from the new employment services and measures offered by the National Agency for Employment.

New measures for this group include: vocational training (including qualification, retraining, advanced training, specialisation courses; certification of knowledge and skills acquired in non-formal and informal education contexts; on-the-job training; work placements); job subsidies; support for job creation or adaptation; stimulation of labour mobility, including those eligible for unemployment benefits.

The Moldovan authorities consider that they can accept Article 30a as regards the employment of persons at risk of social exclusion, while the other requirements of Article 30 are still subject to consultations between the relevant institutions.

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 assistance⁹³. 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.

⁹² Conclusions 2011, Statement of Interpretation on Articles 8§2 and 27§3.

⁹³ Statement of interpretation on Article 30, Conclusions 2003, see e.g. Conclusions France

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 strategy⁹⁴.

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 regions⁹⁵.

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).

The Committee welcomes the new measures adopted by the Republic of Moldova to ensure the integration into the labour market of disadvantaged persons, including those at risk of social exclusion. However, as the requirements of Article 30a go beyond access to the labour market, the Committee reiterates its opinion that other challenges still need to be addressed by the Republic of Moldova to ensure the conformity with this provision. It encourages the Moldovan authorities to continue their efforts to ensure the effective exercise of the right to protection against poverty and social exclusion, as required by Article 30 of the Charter, and to consider accepting this provision in the near future.

Article 31 §§ 1-3 – Right to housing: Adequate housing, Reduction of homelessness, Affordable housing

Situation in the Republic of Moldova

No information is provided by the Moldovan authorities on the measures taken to guarantee the right to housing.

Opinion of the Committee

The Committee recalls that Article 31 imposes to States 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 resources⁹⁶.

⁹⁴ Conclusions 2005, Slovenia

⁹⁵ Statement of interpretation on Article 30, Conclusions 2003, see e.g. Conclusions France

⁹⁶ European Roma Rights Center (ERRC) v. Bulgaria, Complaint No. 31/2005, Decision on the merits of 18 October 2006, § 35

Article 31 cannot be interpreted as imposing on States 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, States Party must⁹⁷:

- 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.

Under Article 31, States Parties must guarantee to everyone the right to adequate housing (Article 31§1), take action to prevent categories of vulnerable people from becoming homeless (Article 31§2) and ensure an adequate supply of affordable housing for persons with limited resources. The right to affordable housing must be guaranteed without discrimination (Article 31§3).

In its previous assessment, the Committee considered that some obstacles remained in the Republic of Moldova to the acceptance of Article 31§§1-3. Having received no new information from the Moldovan authorities, the Committee understands that the situation has remained unchanged and therefore reiterates its opinion that the legal situation and practice constitute an obstacle to the acceptance by the Republic of Moldova of Article 31§§1-3 of the Charter.

⁹⁷ International Movement ATD Fourth World v. France, complaint No. 33/2006, decision on the merits of 5 December 2007, §§ 58-60

— The Republic of Moldova and the European Social Charter —

Signatures, ratifications and accepted provisions

The Republic of Moldova ratified the Revised European Social Charter on 08/11/2001, accepting 63 of the 98 paragraphs of the Charter.

It has not accepted the Additional Protocol of 1995 providing for a system of collective complaints.

The Charter in domestic law

Article 4 of the Constitution: "1. Constitutional provisions concerning human rights and freedoms shall be understood and implemented in accordance with the Universal Declaration of Human Rights, and with other conventions and treaties to which the Republic of Moldova is party. 2. Wherever disagreements appear between conventions and treaties signed by the Republic of Moldova and her own national laws, priority shall be given to international regulations."

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 the Republic of Moldova in 2006, in 2012 and in 2018.

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.